

Consultation

Non-domestic market review: Statutory consultation on licence changes

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We are consulting on changes to the standard licence conditions (SLC) for Non-Domestic gas and electricity suppliers that set the rules for Standards of Conduct, Third Party Intermediary service fee transparency, and rules for which Third Party Intermediaries suppliers can work with. We are also consulting on a new rule to signpost customer support services and on changes we wish to make to the Complaints Handling Standards suppliers must follow. Alongside this consultation, we are publishing a draft Impact Assessment of these changes.

We would like views from people with an interest in these rules. We particularly welcome responses from consumer groups, suppliers, trade bodies, Third Party Intermediaries or energy brokers and Non-Domestic customers. We would also welcome responses from other stakeholders and the public.

This document outlines the scope, purpose and questions of the consultation and how you can get involved. Once the consultation is closed, we will consider all responses. We want to be transparent in our consultations.

We will publish the non-confidential responses we receive alongside a decision on next steps on our website at [ofgem.gov.uk/consultations](https://www.ofgem.gov.uk/consultations). If you want your response – in whole or in part – to be considered confidential, please tell us in your response and explain why. Please clearly mark the parts of your response that you consider to be confidential, and if possible, put the confidential material in separate appendices to your response.

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Executive Summary

The market turmoil of last year created enormous stress for households, businesses, and suppliers. We took a close look at our regulatory framework in the Non-Domestic market and found areas where customers needed more support. In July this year we set out our review findings and ideas on where rule changes could help¹. We received over 400 responses to our July publication. After further consideration of this stakeholder evidence, together with more detailed information from suppliers and business customer research, this document sets out our proposed changes to specific rules for Non-Domestic suppliers, to better support Non-Domestic Customers and drive up standards.

Proposed Changes

Under any market scenario, energy suppliers should be continually striving to adopt and embed a consumer-centric culture and ensure their conduct results in all customers being treated fairly. We currently have a Standards of Conduct rule – Supply Licence Condition (SLC) 0A - that requires suppliers to treat the very smallest (Micro Business²) customers fairly. But our evidence shows that issues can arise for all types of customers. Larger Non-Domestic Customers can log similar numbers of complaints per 100,000 customers as Micro Business customers³, including for billing problems and poor customer service. In many cases, they are resolved in a timely manner. But not in all cases. We now propose **to expand this Standards of Conduct rule to include all customers**, to better reflect the fact that all customers, regardless of size or energy use, should expect fair treatment. Our proposed rule will re-enforce to suppliers the importance of taking a consumer-centric approach and allow us to act to correct poor behaviour.

In our July publication, we asked government to consider making some regulatory changes. This included considering an expanded scope of the business customers who can seek redress through the Energy Ombudsman if they are struggling to resolve an issue with their energy supplier. Currently only household and Micro Business Consumers

¹ <https://www.ofgem.gov.uk/publications/non-domestic-market-review-findings-and-policy-consultation>

² A Micro Business Consumer meets the following criteria: uses less than 100,000 kWh of electricity a year; uses less than 293,000 kWh of gas a year; or has fewer than 10 employees (or their full-time equivalent) and an annual turnover total not exceeding 2 million Euros.

³ For example, see Figure 2.1 on page 20 that shows similar numbers of complaints per 100,000 customers across all electricity customer size.

can access this energy supplier redress scheme. Our July publication highlighted that some businesses that were larger than Micro Businesses struggled to resolve issues with suppliers and could not easily access legal support. We welcome government's positive response to this request and note that alongside this consultation, government are consulting on expanding who can access the Energy Ombudsman⁴. Under the government's proposal, more business customers, under a new proposed Small Business Consumer definition⁵, could access this support which could drive better service standards from suppliers.

To match that proposal, we are today **proposing to widen the Complaints Handling Standards⁶ to that same Small Business Consumer definition**. These Standards set out the process suppliers must follow with complaints, through to referring an unresolved complaint to the Energy Ombudsman after 8 weeks. They also require them to have in place the right resources to handle complaints in an efficient and timely way. Data we have collected shows that customers up to the new proposed Small Business threshold levels, but larger than Micro business size, currently can wait three months or longer to get a resolution. So, under this proposal, these customers should find it easier to raise a complaint with their supplier, receive better updates during the process, and get quicker resolution - in addition to being able to access the Energy Ombudsman if it can't be resolved within 8 weeks. We do not believe we should expand these Complaints Handling Standards to include all customers. Our review has shown that larger customers usually have the support of a dedicated account manager and the bespoke arrangements often put in place for larger customers would need more flexibility than these Complaints Handling Standards allow for. But we believe the proposal to expand the Standards of Conduct rules to all customers will offer protection to larger customers, whilst still allowing for flexibility on how suppliers service their customers.

We are proposing to **require suppliers to signpost the relevant statutory customer support** services, including Citizen's Advice and Citizen's Advice Scotland. Certain

⁴ <https://www.gov.uk/government/consultations/new-threshold-for-businesses-accessing-the-energy-ombudsman>

⁵ The Small Business Consumer definition that government are consulting on would include businesses that use no more than 500,000 kWh of electricity per year; or use no more than 500,000 kWh of gas per year; or who have fewer than 50 employees (or their full time equivalent) and have an annual turnover no greater than £6.5m or balance sheet total no greater than £5 million. Please see the government link above to access this consultation and details on where you can comment on their proposal.

⁶ <https://www.legislation.gov.uk/ukxi/2008/1898/introduction/made>

consumer bodies are set up via government to support specified consumers. We received evidence of low numbers of relevant businesses reaching out to support services, with a high proportion only finding their way to these services when they are deep into their problems. We want to ensure that customers know where they can access help before their issue escalates. In addition to this signposting proposal, we will also work with consumer bodies to explore how else to better raise awareness for eligible customers.

We received a lot of stakeholder feedback related to Third Party Intermediaries (TPIs), which includes energy brokers, who we do not regulate. They are, though, a critical part of the energy sector. We have therefore asked government to consider introducing regulation of TPIs. While they consider this, we are mindful that many customers rely on TPIs to find the best deals and to manage their contracts. But if it goes wrong, business customers could only seek legal recourse - and for some businesses this is not easy to do. Last year we introduced a requirement that energy suppliers securing Micro Business contracts through energy brokers could only work with brokers that were part of a redress scheme. We matched this to the scope of the Energy Ombudsman redress scheme, so that customers who know they can access redress for their energy supplier could equally access redress for issues with their TPIs. Given the government's proposal to widen the scope of the Energy Ombudsman, we are similarly proposing to widen the scope of our requirement on suppliers, to **require suppliers securing Small Business Consumer contracts through TPIs to only work with TPIs who are part of a redress scheme**. This avoids customer confusion.

In previous reviews, we have found that customers were not always aware if and what they are paying for a TPI service, as the TPI service fee can simply be added to a customer's energy supply bill. Last year we introduced a rule that suppliers needed to make clear in any Principal Terms of a contract, or upon request, any Third Party Costs that were included in the contracted rates for Micro Business customers. This allowed for better comparison and knowledge of supplier rates and the Third Party Costs added to these charges, which covers energy broker rates. In our July consultation, most respondents called for improved transparency for all Non-Domestic customers, to empower them to make better decisions. A reputable service provider should always be clear about what they are charging for their service. But if they avoid doing this, and their service fee is paid via the supplier's bill to a customer, then it is helpful for the customer to get this information from their energy supplier. We are today proposing to **expand the existing rule to require clarity about Third Party Costs for all business customers**, not just Micro Business customers. This does not add significant

costs to suppliers, brings benefit to customers and levels the playing field for TPIs, as some are already clear about their charges.

Alongside this statutory consultation we have published a draft impact assessment on all our proposals, which we would appreciate stakeholders' views on. This uses the information we received from multiple sources, including information requests to suppliers, consumer research and responses to the July policy consultation. A number of the benefits discussed in the IA are non-monetised and include improved customer protection, awareness and trust in the market. We believe the benefits outweigh the costs.

Next Steps

This document sets out the early feedback we received to all the above proposals, summarising the responses to our July consultation that are published on our website⁷. It also sets out further evidence for our refined proposals. **We invite all interested stakeholders to comment on our proposed licence changes by the 31 January 2024.**

After we close our consultation, we will review responses to this consultation and discuss with government the outcome of their consultation to expand the Energy Ombudsman. If, following their consultation, they change their proposal, which will impact some of the proposals we are making, we will work with them to ensure we match any changes and update stakeholders. If there are no changes, we expect to publish our decision in Spring next year; we expect to align the publication of our decision with the government decision on their proposal to expand the Energy Ombudsman.

In the meantime, we continue to progress our work on increasing our monitoring of the Non-Domestic market. We also are working with government to consider ways to better support those domestic consumers that take their energy supply via a Non-Domestic contract, such as mobile park and care home residents. Government published a call for

⁷ <https://www.ofgem.gov.uk/publications/non-domestic-market-review-findings-and-policy-consultation>

evidence on this topic back in July⁸, they are currently reviewing their findings and will provide an update in the New Year.

We also welcome the positive contribution both suppliers and customers groups are making to jointly discuss and progress ongoing voluntary actions that will help support Non-Domestic Customers. This includes increased bill transparency and better industry policies to smooth the change of tenancy process. It is satisfying to see all stakeholders pull together to help resolve issues. We look forward to further positive engagement.

Taken together, we believe this package of measures are proportionate and will bring positive benefits to customers. We welcome your feedback.

⁸ <https://www.gov.uk/government/calls-for-evidence/domestic-consumers-with-non-domestic-energy-supply-contracts-call-for-evidence>

1. Introduction

Section summary

This section sets out what we are consulting on with regards to changes to licence obligations on Non-Domestic gas and electricity suppliers and the background information that has led to our proposals. It signposts the chapters that provide more details on each proposal. It also informs stakeholders that we are publishing a draft impact assessment alongside this consultation. This chapter explains the consultation process and how you can respond to questions about our proposals and the draft impact assessment.

Questions

- Q1. Alongside this consultation document we have published a draft impact assessment. Do you have any comments on the draft impact assessment published alongside this document, including the costs and benefits, competition impacts, and unintended consequences?
- Q2. Is there anything that has not been included in the impact assessment that you believe should be included?

What are we consulting on?

- 1.1 We are proposing to insert one new and amend three existing licence conditions for Non-Domestic suppliers. We are also proposing changes to the regulations that set out the Complaints Handling Standards for suppliers. We summarise the changes below and point you to where you can find further details in this document. The text of all proposed licence changes are set out in Appendix 1.
- 1.2 We are proposing to expand the existing Standards of Conduct in SLC 0A to apply to supplier interactions with all Non-Domestic Customers. We are making this proposal following our review of information from our previous consultation and information from suppliers and customers. (See **Section 2: Standards of Conduct**).
- 1.3 Government is consulting on expanding access to the Energy Ombudsman⁹. They are proposing an expanded definition of business customers who can access this support, namely Small Business Consumers. To align with this proposed change,

⁹ This government consultation can be accessed at the following weblink: <https://www.gov.uk/government/consultations/new-threshold-for-businesses-accessing-the-energy-ombudsman>

we put forward proposed amendments to the Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008¹⁰ by expanding them to apply to Small Business Consumers. (See **Section 3: Complaints Handling Standards**).

- 1.4 We also propose to modify Standard Licence Condition (SLC) 20 to include a condition that requires suppliers to inform applicable customers that are eligible to access Citizens Advice¹¹ about the access they have to support services and how to contact them. (See **Section 4: Signposting to relevant customer support services**).
- 1.5 We propose to expand the rule related to which Third Party Intermediary (TPI) suppliers can work with. Currently suppliers must ensure any TPI they are working with for a Micro Business contract must be registered with a Qualifying Dispute Settlement Scheme (QDSS). We are now proposing to expand this rule to include any Small Business contract, to match the expanded access government are consulting on for supplier redress, to avoid customer confusion. This proposal would amend SLC 20.5 in the electricity licence and SLC 20.6 in the gas licence, as set out in Appendix 1. (See **Section 5: Third Party Intermediary redress scheme membership**).
- 1.6 We wish to expand requirements for TPI service fee disclosure to all Non-Domestic Customers and amend the format of disclosure to bring in increased transparency and easier comparisons of fees and cost for all customers. We propose to modify SLC 20.6 in the electricity licence and SLC20.7 in the gas licence. These can be seen in Appendix 1. As highlighted in our July policy consultation¹², we propose moving this requirement, currently only relevant for Micro Business Consumers, from SLC7A.10C. (See **Section 6: Third Party Intermediary service fee transparency**).
- 1.7 We also provide an update about the other areas of work we are progressing that do not require changes to Licence Conditions (see **Section 7: Update on other work in progress**). Then, **Section 8: Next Steps** provides an overview of our actions in the coming months and a summary of our proposed implementation timelines for all of our proposed licence changes.

¹⁰ [The Gas and Electricity \(Consumer Complaints Handling Standards\) Regulations 2008 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

¹¹ In this document, where we refer to signposting to Citizens Advice this should be read as signposting to Citizens Advice and Citizens Advice Scotland.

¹² <https://www.ofgem.gov.uk/publications/non-domestic-market-review-findings-and-policy-consultation>

Why are we consulting?

- 1.8 Last year we received reports that suggested the Non-Domestic market was not delivering the positive consumer outcomes we expect, with issues including poor customer service, problems with getting energy contracts, and unexpected price changes. In early 2023 we investigated whether these issues were temporary, related to short-term market turbulence and wider economic pressures, or if they indicated more systemic issues that needed rule changes to better protect Non-Domestic customers. We engaged with suppliers and consumer groups through roundtables and bilateral meetings. We used the information gathered to create a formal information request to suppliers¹³, as well as to formulate a Call for Input (CfI)¹⁴ for all stakeholders.
- 1.9 In July, we published our findings from the CfI and a policy consultation¹⁵ (our 'July consultation') on possible licence changes that sought to address the issues we found. This July document also set out actions that did not require licence changes, as well as specific requests to government in areas that were not within Ofgem's *vires*.
- 1.10 This statutory consultation document builds on the information and evidence gathered from our July consultation, additional information requests to suppliers and business customer research and makes proposals to amend specific Non-Domestic supplier licence conditions. It also gives an update on the areas of work we are undertaking that do not require changes to licence conditions.
- 1.11 Some of our proposals align with potential changes government is making. This consultation should therefore be viewed alongside the government consultation on a new threshold for businesses allowed to access the Energy Ombudsman¹⁶. The government has proposed expanding the number of business customers that can access redress services provided by the Energy Ombudsman. Currently only Micro Business Consumers can access this support if they cannot resolve an issue with their energy supplier. Their consultation introduces a 'Small Business Consumer' definition. While full details can be obtained on the government

¹³ We sent out a formal Request for Information (September RFI) to 60 non-domestic suppliers on 8th September 2023 with responses due back on 6th October 2023.

¹⁴ <https://www.ofgem.gov.uk/publications/call-input-non-domestic-gas-and-electricity-market>

¹⁵ <https://www.ofgem.gov.uk/publications/non-domestic-market-review-findings-and-policy-consultation>

¹⁶ The government consultation can be accessed here:

<https://www.gov.uk/government/consultations/new-threshold-for-businesses-accessing-the-energy-ombudsman>

website, the table below sets out the difference between Micro Businesses and the proposed Small Business definition.

Table 1.1. Micro Business Consumer and proposed Small Business Consumer definitions

Current Micro Business Consumer Definition	Proposed 'Small Business Consumer' Definition
<p>A Non-Domestic customer is defined as a Micro Business Consumer if they:</p> <p>employ fewer than 10 employees (or their full time equivalent) and has an annual turnover or balance sheet no greater than 2 million euros (this figure is intended to be converted into GBP by government);</p> <p>or uses no more than 100,000 kWh of electricity per year;</p> <p>or uses no more than 293,000 kWh of gas per year.</p>	<p>A Non-Domestic customer is defined as a Small Business Consumer if they:</p> <p>employ fewer than 50 employees (or their full time equivalent) and has an annual turnover no greater than £6.5 million or balance sheet total no greater than £5.0 million;</p> <p>or uses no more than 500,000 kWh of electricity per year;</p> <p>or uses no more than 500,000 kWh of gas per year.</p>

1.12 This proposed broadening of the scope for access to the Energy Ombudsman impacts several areas under Ofgem’s oversight. In particular, we have aligned three of the proposals in this consultation to this proposed Small Business Consumer definition because they are either inextricably linked, or to avoid customer confusion. Namely the proposed changes to the Complaints Handling Standards, the signposting to consumer support rule changes and the supplier rules on working with TPIs that are members of a redress scheme.

1.13 We will work closely with the government whilst they review responses to their consultation. If there is a change to what they have proposed, we will reflect on how this may affect or change the proposals in this consultation. If there is not a change, we will work with them to ensure any confirmed changes take effect together, wherever possible.

Related publications

- 1.14 Directly related to this work, please see below links to letters we have sent suppliers, an interim update on our Non-Domestic review work we sent government, and a link to our CfI.
- Letter to Non-Domestic suppliers about reports of Non-Domestic customer harm | Ofgem (16 November 2022). <https://www.ofgem.gov.uk/publications/letter-non-domestic-suppliers-about-reports-non-domestic-customer-harm>
 - Letter to Chancellor of the Exchequer from Jonathan Brearley on Non domestic supply market concerns and actions | Ofgem (30 January 2023). <https://www.ofgem.gov.uk/publications/letter-chancellor-exchequer-jonathan-brearley-non-domestic-supply-market-concerns-and-actions>
 - Call for input on the Non-Domestic gas and electricity market | Ofgem (28 February 2023). <https://www.ofgem.gov.uk/publications/call-input-non-domestic-gas-and-electricity-market>
 - Non-domestic market review: Findings and policy consultation | Ofgem (26 July 2023). <https://www.ofgem.gov.uk/publications/non-domestic-market-review-findings-and-policy-consultation>
 - Non-domestic Consumer Research 2023 interim report | Ofgem (07 December 2023) <https://www.ofgem.gov.uk/publications/non-domestic-consumer-research-2023-interim-findings>
- 1.15 We have also published a Debt and Disconnection best practice guide and a best practice guide for Security deposits:
- Open letter: Good practice expectations for Non-Domestic suppliers on issues surrounding debt management and disconnection of customers | Ofgem (20 December 2022). <https://www.ofgem.gov.uk/publications/open-letter-good-practice-expectations-non-domestic-suppliers-issues-surrounding-debt-management-and-disconnection-customers>
 - Non-domestic best practice guide for security deposits | Ofgem (26 July 2023). <https://www.ofgem.gov.uk/publications/non-domestic-best-practice-guide-security-deposits>
- 1.16 Closely related to this work, we published Guidance earlier this year on Third Party Intermediary alternative dispute resolution schemes.

- Decision on Guidance for Third Party Intermediary Alternative Dispute Resolution scheme criteria | Ofgem (2 June 2023).
<https://www.ofgem.gov.uk/publications/decision-guidance-third-party-intermediary-alternative-dispute-resolution-scheme-criteria>

1.17 Following our earlier consultation on Guidance to suppliers when interpreting the rules around Deemed contract rates, we published final Guidance in November. (More details in Section 7).

- Guidance on Deemed Contracts | Ofgem (6 November 2023).
<https://www.ofgem.gov.uk/publications/guidance-deemed-contracts>

1.18 We also note again the government consultation to expand access to the Energy Ombudsman, which stakeholders should consider alongside this consultation
<https://www.gov.uk/government/consultations/new-threshold-for-businesses-accessing-the-energy-ombudsman>

Draft impact assessment on Non-Domestic market review proposals.

1.19 We have published a draft impact assessment on our Non-Domestic market review proposals alongside this consultation document.¹⁷ The impact assessment contains a cost and benefit analysis of the proposed licence changes outlined in this document. We are also seeking feedback on the draft impact assessment.

Consultation stages

1.20 The key dates of the consultation process are set out below:

Stage 1	Stage 2	Stage 3	Stage 4
Consultation open	Consultation closes (awaiting decision). Deadline for responses	Responses reviewed and published	Consultation decision/policy statement
07/12/2023	31/01/2024	Spring 2024	Spring 2024*

*Linked to government decision on their proposal to expand access to the Energy Ombudsman

¹⁷ [Non-Domestic Market Review Findings and Statutory Consultation](#), Draft Impact Assessment

How to respond

- 1.21 We want to hear from anyone interested in this consultation. Please send your response to the person or team named on this document's front page.
- 1.22 We've asked for your feedback in each of the questions throughout. Please respond to each one as fully as you can.
- 1.23 We will publish non-confidential responses on our website at www.ofgem.gov.uk/consultations.

Your response, data and confidentiality

- 1.24 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.
- 1.25 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.
- 1.26 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. Please refer to our Privacy Notice on consultations, see Appendix 4.
- 1.27 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.

General feedback

1.29 We believe that consultation is at the heart of good policy development. We welcome any comments about how we've run this consultation. We'd also like to get your answers to these questions:

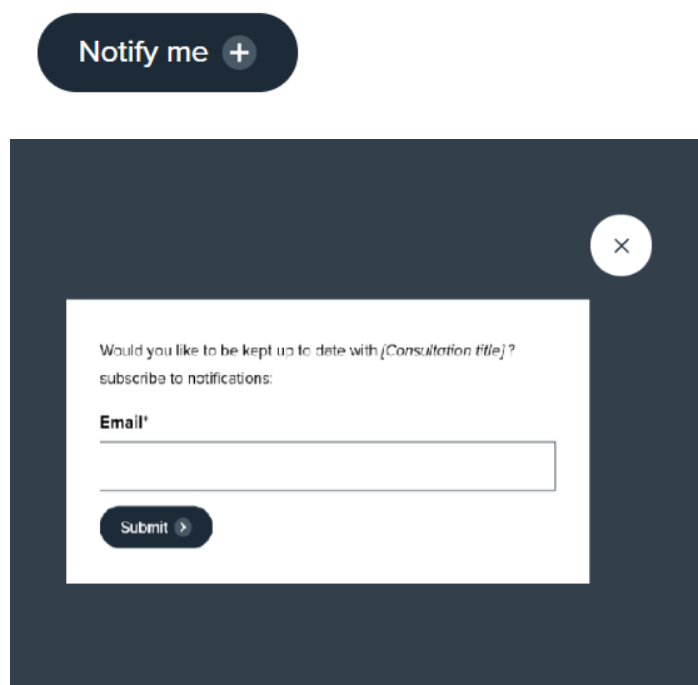
- Do you have any comments about the overall process of this consultation?
- Do you have any comments about its tone and content?
- Was it easy to read and understand? Or could it have been better written?
- Were its conclusions balanced?
- Did it make reasoned recommendations for improvement?
- Any further comments?

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

How to track the progress of the consultation

You can track the progress of a consultation from upcoming to decision status using the 'notify me' function on a consultation page when published on our website.

[Ofgem.gov.uk/consultations](https://www.ofgem.gov.uk/consultations)



Once subscribed to the notifications for a particular consultation, you will receive an email to notify you when it has changed status. Our consultation stages are:

Upcoming > **Open** > **Closed** (awaiting decision) > **Closed** (with decision)

2. Standards of Conduct

Section summary

The Standards of Conduct are a set of broad principles set out in SLC 0A of the Gas and Electricity supply licences that suppliers must adhere to when dealing with their Micro Business Customers. We received evidence that Non-Domestic Customers who were larger than Micro Business Customers were not experiencing good customer service. The existing Standards of Conduct, if expanded, would cover the areas of concern we have identified in the broader Non-Domestic market. We are therefore proposing to amend SLC 0A in the Gas and Electricity supply licences to expand the Standards of Conduct to apply to all Non-Domestic Customers. We consider this will place firm responsibility on suppliers to deliver good customer outcomes.

Questions

Q3. Do you agree with our proposal to expand the Standards of Conduct to all Non-Domestic Consumers? Please provide a reason for your view.

Q4. Do you have any comments on our proposed draft licence text for SLC 0A?

Q5. Do you agree with our proposal to implement the SoC as soon as the updated licence condition takes effect? Please provide a reason for your view.

Q6. Do you have any views on the updated draft Standards of Conduct Guidance?

What policy change did we suggest in July?

2.1 Standard Licence Condition 0A of the Gas and Electricity Supply Licences contains rules to ensure suppliers treat Micro Business Consumers fairly, known as the Standards of Conduct (SoC). The SoC are enforceable, broad principles which relate to certain aspects of billing, contract, and transfer activities that suppliers engage in with Micro Business Consumers.¹⁸

2.2 The broad principles include requirements that suppliers must:

- behave and carry out actions in a fair, honest, transparent, appropriate and professional manner.
- provide information (whether in writing or orally) to each Micro Business Consumer which, amongst other things, is complete, accurate and not misleading, and communicated in plain and intelligible language.

¹⁸ Standard Licence Condition 0A sets out the non-domestic Standards of Conduct. Standard Licence Condition 0 sets out the domestic Standards of Conduct.

- make it easy for Micro Business Consumers to contact the supplier, acting promptly to put things right when the supplier makes a mistake, and to otherwise ensure that customer service arrangements are fit for purpose and transparent.
- 2.3 We received evidence¹⁹ that Non-Domestic Customers are not always receiving the levels of customer service they need and have a right to expect. During our February 2023 Call for Input we received numerous complaints about supplier behaviour that we consider would fall under the Standards of Conduct if they were to be expanded, for example complaints regarding suppliers' poor provision of information and challenges contacting the supplier. Stakeholders also asked for information from suppliers to be clear, and not misleading. However, the current SoC do not apply to businesses larger than Micro Business Consumers.
- 2.4 We proposed to expand the SoC to apply to more Non-Domestic Customers to address these issues identified. We consulted on expanding to all Non-Domestic Customers or expanding up to a threshold and asked for views on these proposals including costs and benefits. We considered these proposals would extend consumer protections and ensure suppliers treat their Non-Domestic Customers fairly.

What stakeholders said

- 2.5 A large majority of stakeholders supported expanding the SoC, with a small minority of suppliers disagreeing with the proposal. Many stakeholders welcomed the introduction of additional protections and suggested the SoC should be expanded across all Non-Domestic Customers, noting that poor supplier behaviour impacts on Non-Domestic Customers regardless of size. One stakeholder stated that a lot of administration time is required to solve problems due to poor business service from suppliers. One consumer group noted its members consistently refer to poor communication from suppliers, for example being left uninformed of critical information regarding price changes. The stakeholder also stated its members cited difficulties contacting their supplier as a major concern, and therefore welcomes that our proposal would require suppliers to make it easy for consumers to contact the supplier and act promptly to put things right when the supplier makes a mistake.

¹⁹ For example, from individual consumer complaints and engagement with industry bodies.

- 2.6 Several stakeholders, including suppliers and trade bodies, suggested that application of the SoC would differ for different market segments or business sizes, particularly due to the complex nature of larger business contracts. Multiple stakeholders raised concerns with SLC 0A.3 b(ii), which requires that the licensee “provides information (whether in Writing or orally) to each Micro Business Consumer which [...] is communicated (and, if provided in Writing, drafted) in plain and intelligible language with more important information being given appropriate prominence;”. Stakeholders noted that it may not be appropriate to communicate with larger customers in ‘plain’ language, as their circumstances may be both complex and technical. Some stakeholders suggested I&C customers should be excluded from any expansion of the SoC.
- 2.7 Four suppliers did not agree with extending the SoC past Micro Business Consumers. Of these, one stated that customers would “vote with their feet” if their needs were not being met, meaning customers will change supplier at the earliest opportunity. Another suggested that expanding across the Non-Domestic market would erode the protections already available to Micro Business Consumers, who face similar challenges to domestic consumers. Three suppliers felt that there was a lack of evidence that there was a systemic issue.
- 2.8 Several suppliers noted they already adopt the SoC across all their customers, and two further commented that all customers should be treated fairly, regardless of size.

What is our proposed licence change now?

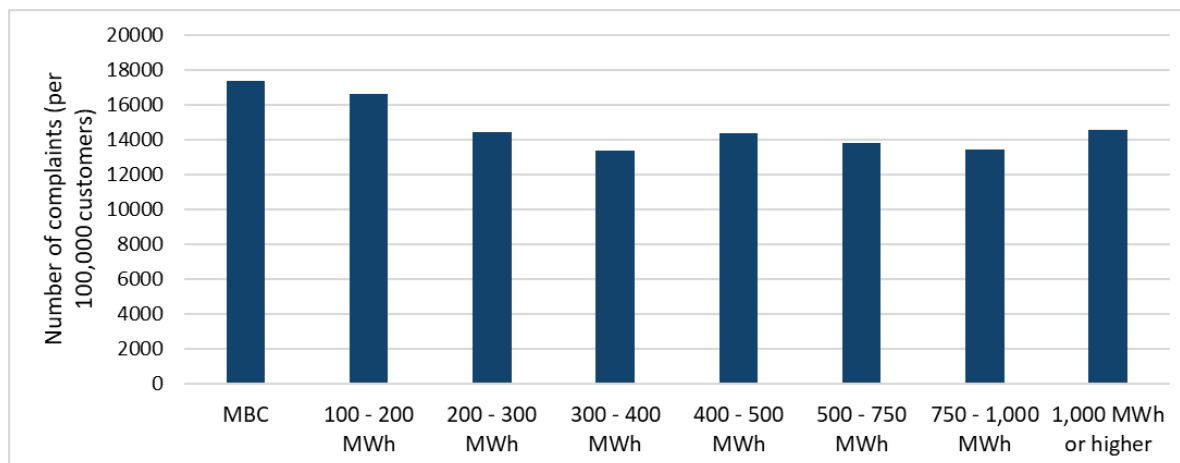
- 2.9 After considering consultation responses, supplier data and further engagement, we are proposing to expand the SoC set out in SLC 0A across the whole market to apply to all Non-Domestic Customers. Please see Appendix 1 for draft licence text, where we propose to replace instances of “Micro Business Consumer” with “Non-Domestic Customer”.

Reasons for our proposal

- 2.10 We are proposing to expand to all Non-Domestic Customers, rather than only expanding to Small Business Consumers, for a number of reasons which we discuss in this section.
- 2.11 Customer complaints have indicated that customers can spend significant time and resource resolving issues with their supplier and would benefit from obligations on suppliers to treat their customers fairly. Information we formally requested from suppliers in September (‘our September RFI’) indicates that

customers of all sizes are experiencing issues with their supplier, which can be seen in Figures 2.1 and 2.2. It is not limited to smaller businesses.

Figure 2.1 – Total complaints received per 100,000 customers between 1 September 2021 and 31 August 2023 by consumption band, power²⁰

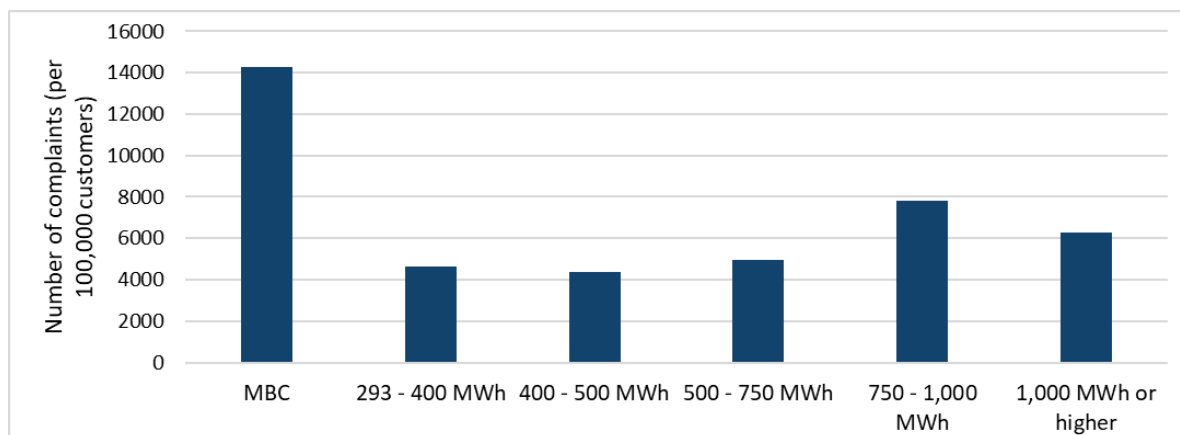


Data table for Figure 2.1

	MBC	100 - 200 MWh	200 - 300 MWh	300 - 400 MWh	400 - 500 MWh	500 - 750 MWh	750 - 1,000 MWh	1,000 MWh or higher
Total complaints per 100,000 customers	17,363	16,618	14,471	13,388	14,356	13,823	13,417	14,572

²⁰ For ease to the reader, we have shortened the consumption bands to the most suitable size and to display consumption in Megawatt hours (MWh). 1 MWh is equal to 1,000 kWh. The original consumption bands include for Power: MBC, above 100,000 kWh and up to 200,000 kWh, above 200,000 kWh and up to 300,000 kWh, above 300,000 kWh and up to 400,000 kWh, above 400,000 kWh and up to 500,000 kWh, above 500,000 kWh and up to 750,000 kWh, above 750,000 kWh and up to 1,000,000 kWh, and 1,000,000 kWh or higher. For Gas: MBC, above 293,000 kWh and up to 400,000 kWh, above 400,000 kWh and up to 500,000 kWh, above 500,000 kWh and up to 750,000 kWh, above 750,000 kWh and up to 1,000,000 kWh and 1,000,000 kWh or higher.

Figure 2.2 – Total complaints received per 100,000 customers between 1 September 2021 and 31 August 2023 by consumption band, gas



Data table for Figure 2.2

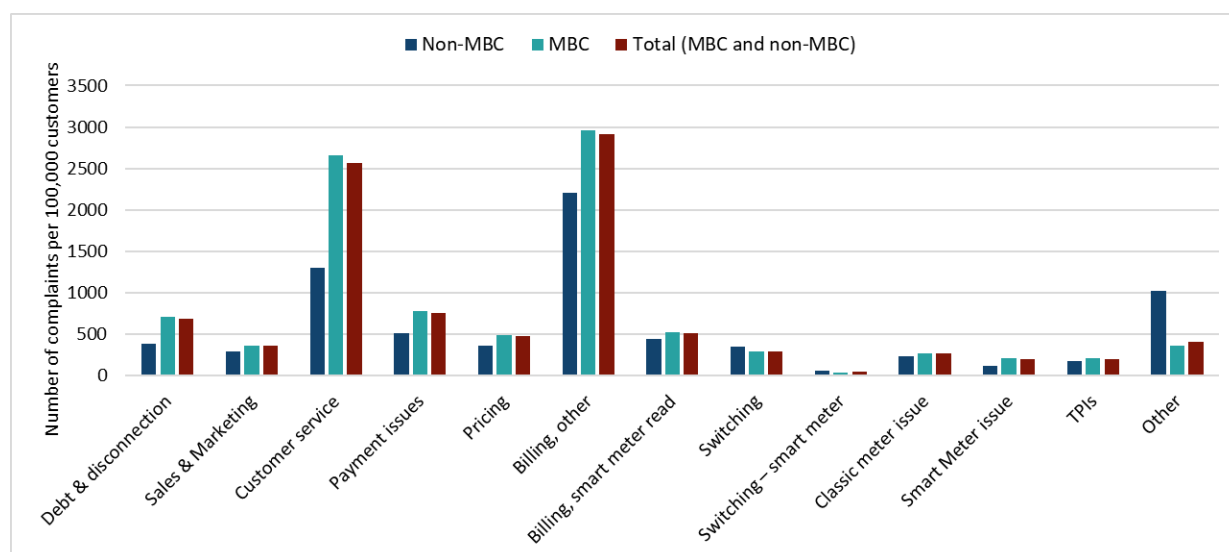
	MBC	293-400 MWh	400-500 MWh	500-750 MWh	750-1,000 MWh	1,000 MWh or higher
Total complaints per 100,000 customers	13,405	4,662	4,374	4,937	7,808	6,257

2.12 Figure 2.3 below shows that the majority of complaints suppliers received between 1 September 2022 and 31 August 2023 (inclusive) lie in billing issues and customer service issues. In addition, research commissioned by the government and Ofgem²¹ found that while many Non-Domestic Customers are satisfied with the overall service they had received from their supplier (60%), 13% say they are dissatisfied. The most common reasons for customer dissatisfaction with their energy supplier were that they were too expensive (39%), poor customer service (39%), poor communication (38%) and billing issues (31%). Billing issues, communication issues and customer service issues all fall within the Designated Activities that are in scope of the SoC.

²¹

Non-Domestic Consumer Research 2023 interim report: <https://www.ofgem.gov.uk/publications/non-domestic-consumer-research-2023-interim-findings>

Figure 2.3 – Total complaints per 100,000 customers received in period between 1 September 2022 and 31 August 2023, by complaint category²², power and gas combined²³



Data table for Figure 2.3

	Debt & disconnection	Sales & Marketing	Customer service	Payment issues	Pricing	Billing, other	Billing, smart meter read	Switching	Switching – smart meter	Classic meter issue	Smart Meter issue	TPIs	Other
Non-MBC	389	292	1301	518	361	2209	447	356	61	232	119	172	1026
MBC	708	362	2660	780	487	2963	521	287	43	270	211	207	360
Total (MBC and non-MBC)	686	357	2569	762	478	2911	516	291	44	267	205	205	403

2.13 Responses to our consultation and September RFI indicate that customers of all sizes, from smaller businesses up to large users, are experiencing issues with their suppliers, and the majority of these issues would fall within the scope of the SoC. We consider expanding the SoC would give greater protection and

²² For more information on complaint categories, see the following Guidance: Guidance on submitting customer complaints data | Ofgem: <https://www.ofgem.gov.uk/publications/guidance-submitting-customer-complaints-data> (Note there are some minor differences between the categories in the Guidance and the ones included in this report due to this RFI relating to non-domestic consumers only rather than domestic).

²³ MBC means Micro Business Consumer

transparency to Non-Domestic Customers larger than Micro Business Consumers in areas where they are most needed.

- 2.14 Through engagement with large user groups, we understand that some consider expanding the SoC would have no impact on their large business, while others indicated that additional protections would be welcomed. Our data does not indicate a clear threshold where SoC would no longer be needed, though we note that our data does not differentiate complaints from businesses with annual consumption above 1,000,000 kWh and therefore covers a broad range. We do not consider it would be proportionate to only expand the SoC to Small Business Consumers and exclude customers with annual consumption over 500,000 kWh from the SoC, as this would amount to excluding approximately 61,000²⁴ additional businesses, and suppliers indicated they would likely either face similar set-up costs regardless of where the SoC were expanded to, or face increased costs if they were not applied across all Non-Domestic Customers.
- 2.15 We therefore consider it is reasonable to apply the broad SoC principles to all customers regardless of size, especially given the strong support our proposal received. This is in line with responses that suggested suppliers would face more difficulty in identifying which consumers fall within the regulations, therefore, applying the SoC consistently will ensure expectations on suppliers are sufficiently clear. By applying the SoC across the market we ensure there is a mechanism in place to address any egregious issues where customers of any size are not being treated fairly and ensure that any customers who are in need of additional protections are not unintentionally excluded. We therefore consider expansion of the SoC will place obligations firmly on suppliers to deliver good outcomes for their customers and improve customer experiences.
- 2.16 The Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008 (CHS) set out requirements on how domestic and Micro Business Consumer complaints should be handled and recorded. As we discuss in Section 3, we are proposing to expand the CHS to Small Business Consumers rather than to all Non-Domestic Customers, as complaints are handled differently for larger businesses (for example, many large businesses are managed through account

²⁴ This figure is an estimate of the number of power and gas customer accounts (as at 1 September 2023) with consumption above 500,000kWh rounded to the nearest 1,000 based on the responses from the recent non-domestic RFI sent out in September 2023. The Department for Business and Trade's "Business population estimates for the UK and regions 2023: statistical release" (published 5 October 2023) estimates there were 5.61 million private sector businesses operating at the start of 2023: <https://www.gov.uk/government/statistics/business-population-estimates-2023/business-population-estimates-for-the-uk-and-regions-2023-statistical-release>

management).²⁵ However, from engagement with stakeholders we understand that having an account manager does not always mean a customer will receive good service. We have received reports from stakeholders that they still experience delays in registering complaints with suppliers or getting resolution to issues, despite being account managed. While we are not proposing to expand the CHS across the market, we nevertheless consider suppliers should ensure their customers are able to contact them and should act promptly to put things right where the supplier has made a mistake. We therefore consider expanding the SoC will improve customer outcomes regarding complaints handling, while recognising the more prescriptive approach set out in the CHS may not be applicable to all business sizes.

- 2.17 We also understand that applying the SoC may look different depending on the type or size of consumer. As the SoC are principles-based and focus on consumer outcomes rather than prescriptive requirements, we consider that this allows suppliers the flexibility to deliver good consumer outcomes through a variety of means, which is both consistent with the SoC and suits a supplier's business model. We consider this is particularly relevant in the Non-Domestic sector where requirements and needs of customers can be very different.
- 2.18 While we recognise suppliers' concerns with the use of 'plain and intelligible language', we consider this falls within the principles-based element of the SoC. We recognise that more technical terms may need to be used in certain cases, particularly with the bespoke arrangements for large businesses such as flexible contracts. We are concerned that if the licence condition wording is amended to requiring 'appropriate' or 'suitable' language then it would dilute the impact of the condition upon existing Micro Business Consumers.²⁶ The policy intent is to ensure key information is not hidden, and any information provided is understandable by the end user and not unnecessarily technical where it can be avoided, which we recognise may look different depending on the end consumer. Requiring plain and intelligible language should still allow for contracts to be written as needed for the largest customers, allowing more technical language to be used in large business contracts while still being in language which is plain and

²⁵ Please see Section 3, "Complaints Handling Standards", for more detail on our proposals on the CHS.

²⁶ Our qualitative research with Microbusinesses in 2021 examined what they needed from their supplier. One of the main areas identified was around fair and transparent prices. They highlighted the need for easy-to-understand and distinct prices. This research is published on our Ofgem website: <https://www.ofgem.gov.uk/publications/impact-covid-19-microbusinesses-longitudinal-research>

intelligible to the reader. We consider that this clarification of the policy intent should reassure suppliers of our expectations in how they meet the condition for their largest customers.

Costs of implementation

- 2.19 Responses to our September RFI indicated the total set-up cost to the market for our proposal to extend the Standards of Conduct to all Non-Domestic Customers is estimated to be £1.5m, and the ongoing costs for this policy are estimated to be £1.9m per year. These set up costs equate to roughly £11.42 per non-Micro Business Consumer for set up costs and £13.76 per non-Micro Business Consumer per year for ongoing costs. Many suppliers stated they already apply the SoC across their whole customer base and do not expect to incur significant additional cost. Other suppliers indicated that it would be more challenging and costly to apply the SoC to only a sub-set of customers.
- 2.20 We consider the benefits discussed above and in our impact assessment outweigh these costs. Please see our accompanying impact assessment for more information.²⁷

Guidance on the Standards of Conduct

- 2.21 We recently published a small update to our Guidance to suppliers on the existing Standards of Conduct that apply to Micro Business Consumers.²⁸ The update was to include some examples. We appreciate the feedback we have received so far on this draft Guidance and will consider it when making our decision on the final SoC Guidance.
- 2.22 In the meantime, to assist suppliers who do not currently have Micro Business Consumers to consider the impacts of our proposal to expand the licence condition, we have provided a new draft update to the Guidance in Appendix 3. In tracked changes, we show how we propose to amend the Guidance if we progress with our proposed change. We are interested in hearing stakeholder views on this updated Guidance.

Applying our proposed changes

- 2.23 We propose the changes to the SoC and the updated SoC Guidance should come into effect 57 days after our final decision (ie, the day after the required 56-day

²⁷ <https://www.ofgem.gov.uk/publications/non-domestic-market-review-findings-and-statutory-consultation>

²⁸ <https://www.ofgem.gov.uk/publications/letter-non-domestic-retail-stakeholders-november-2023>

standstill period). This is in line with the implementation timescale when the Standards of Conduct were first introduced to apply to domestic and Micro Business Consumers,²⁹ and ensures obligations to treat Non-Domestic Customers fairly are brought in as soon as possible to deliver good customer outcomes. As we expect to publish our final decision in spring 2024, if we were to proceed with our proposal, we would expect implementation of the SoC to take place in late spring-summer 2024.

- 2.24 We expect that over time suppliers would make changes in their practices with engaging with Non-Domestic Customers, and what is reasonable for a supplier to have accomplished in transforming its processes and systems to meet the SoC will change over time. We would in any case take a proportionate approach to investigating issues in line with the criteria set out in our Enforcement Guidelines.³⁰

²⁹ Please see our 2013 decision on implementing Retail Market review non-domestic proposals, including the non-domestic Standards of Conduct: <https://www.ofgem.gov.uk/publications/implementation-retail-market-review-non-domestic-proposals-decision-make-licence-modifications>

³⁰ Enforcement guidelines: <https://www.ofgem.gov.uk/publications/enforcement-guidelines>

3. Complaints Handling Standards

Section summary

The Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008 (CHS) prescribe how domestic and Micro Business Consumer complaints should be handled and recorded, including a requirement to signpost the consumer to the Energy Ombudsman after 8 weeks or if the supplier can do no more to resolve the complaint.

The government is consulting on proposals to expand access to the Energy Ombudsman to include Small Business Consumers. We are therefore proposing to expand the CHS to include complaints made by Small Business Consumers to align with government's proposals, ensuring relevant consumers are informed they can access the Energy Ombudsman's services and experience a consistent process for how their complaints are handled.

Questions

- Q7. Do you agree with our proposal to align with government proposals and expand the Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008 (CHS) to apply to Small Business Consumers? Please provide a reason for your view.
- Q8. Do you have any further comments on the proposed drafting of the CHS Statutory Instrument text?
- Q9. Do you have any comments on the proposed implementation timeline of 3 months from the date of decision?

What policy change did we suggest in July?

- 3.1 We became concerned about reports of poor complaints handling by suppliers, which can often cause customers significant issues or costs. In our Call For Input we asked if supplier complaints processes were easy to find. While many said that they could find the complaints process, we received many responses from stakeholders about poor complaints handling by suppliers, particularly on the lengthy and frustrating experiences by customers larger than Micro Business Consumers. Some customers told us they had open complaints with suppliers for a number of months, or cases where suppliers take weeks or months to just acknowledge receipt of a complaint.
- 3.2 We want to ensure that Non-Domestic Customers can effectively resolve complaints with their supplier in a timely and appropriate manner. At present, if a Non-Domestic Customer - who is not a Micro Business Consumer - is experiencing

lengthy delays to resolve a complaint or does not accept the resolution offered by the supplier, they have limited routes of challenging this, especially if they are unable to afford legal costs. We therefore proposed in our July consultation to amend the regulatory framework to expand complaints handling obligations to apply to more Non-Domestic Customers. We considered delivering this through amending the Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008³¹ (CHS), or by introducing a new supply licence condition.

- 3.3 We also asked government to explore expanding who can access the Energy Ombudsman redress scheme, so that more Non-Domestic Customers can access this support set out in regulations.³² As discussed in the Introduction to this document, government is currently consulting on their proposal to expand Energy Ombudsman access to Small Business Consumers.

What stakeholders said

- 3.4 The majority of stakeholders were supportive of expanding complaints handling requirements, including trade bodies, consumer groups, TPIs and individual respondents. Several respondents noted that businesses experience issues trying to get resolution to complaints, which can impact business continuity or cash flow. Some respondents considered the proposal would introduce consistency in how consumers can expect their complaints to be handled and would raise industry standards to the benefit of consumers. Many stakeholders considered the CHS should be expanded across the market, but there was particular support for expanding to at least small or medium sized businesses.
- 3.5 While some suppliers were generally supportive of expanding to a threshold (such as to small or medium sized businesses), there were strong views from suppliers that the CHS should not be expanded to the whole market, and especially not large Industrial and Commercial (I&C) customers. Suppliers stated this is because many large businesses are dealt with via account management and complaints are not logged or recorded in the same way as for smaller businesses and may form part of a broader ongoing dialogue between supplier and customer. They also noted the CHS are too prescriptive for large businesses. Some suppliers commented that prescribing how complaints are handled for these large

³¹ The CHS can be found here: <https://www.legislation.gov.uk/uksi/2008/1898>

³² Who can access the Energy Ombudsman is defined in the Gas and Electricity Regulated Providers (Redress Scheme) Order 2008 (<https://www.legislation.gov.uk/uksi/2008/2268/made>) and its associated amendment, the Gas and Electricity Regulated Providers (Redress Scheme)(Amendment) Order 2014 (<https://www.legislation.gov.uk/uksi/2014/2378/made>)

customers would actually detract from the current service they receive, and not achieve good consumer outcomes. Similarly, a few suppliers raised concerns with the current definition of a complaint, explaining that it would not be applicable to large customers and would make recording and reporting complaints from these customers challenging.

3.6 Several suppliers raised concerns with a prescriptive 8-week timeline to resolve a complaint before it is eligible to be taken to the Energy Ombudsman due to the often-complex nature of large business complaints. Another stakeholder considered this 8-week timeline should be reduced.

3.7 In their consultation responses and wider engagement, many suppliers also indicated that they tend to treat small and medium businesses complaints in similar ways to their Micro Business Consumers. As the Micro Business Consumer definition includes an employee and turnover based threshold as well as a consumption threshold, suppliers may not always have all the information that identifies a Micro Business Consumer. Suppliers stated that treating small and medium businesses in line with Micro Business Consumer obligations ensures that suppliers remain compliant with their licence requirements by capturing those Micro Business Consumers who may have higher consumption. Some suppliers also stated that in general, smaller businesses may have similar needs or experience similar issues to Micro Business Consumers; one supplier stated that customers with annual consumption under 500,000 kWh generally have similar queries or issues to its Micro Business Consumers.

What is our proposed change now?

3.8 After considering consultation responses, customer survey research, supplier RFI returns and further engagement, we are proposing to amend the CHS by expanding them to apply to Small Business Consumers. Please see Appendix 2 for the draft Statutory Instrument text.

3.9 As this is a proposed secondary legislation change, implementation timelines will depend on a number of factors, including any changes made to the legislation for the Energy Ombudsman which would be subject to parliamentary processes. We will keep stakeholders informed of developments to implementing the CHS changes.

Reasons for our proposal

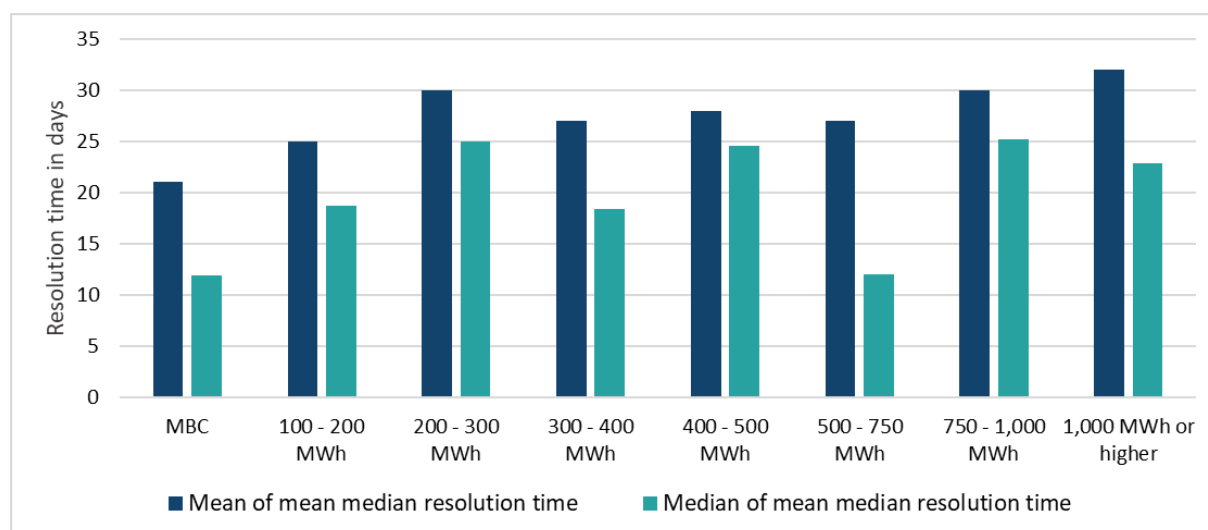
3.10 We are proposing to expand the CHS to Small Business Consumers for a number of reasons, which we discuss in this section.

- 3.11 We consider it is important to align the CHS expansion with government’s proposal to expand access to the Energy Ombudsman to Small Business Consumers. The CHS set the timings and process under which the Energy Ombudsman can be accessed. Section 6 of the CHS requires customers to be signposted to the relevant redress scheme if their complaint cannot be resolved. If the CHS were not expanded, there would be a gap in the regulations where Small Business Consumers are able to access the Energy Ombudsman but there is no obligation to inform them within the CHS.
- 3.12 The CHS also set the recording requirements for consumer complaints which enables a consistent process for any complaint including complaints which are referred to the Energy Ombudsman. There is precedent for this expansion as government expanded the definition of a Micro Business Consumer in 2014, which concurrently expanded who was captured under the CHS.³³
- 3.13 We consider this proposal will align with the proposed Energy Ombudsman expansion and ensure that more businesses are able to have consistent expectations on how their complaints will be handled, including how to make a complaint and understand the process of how it may be resolved.
- 3.14 We also are concerned with customer experiences with resolving complaints with their supplier. A survey of Non-Domestic energy consumers commissioned by Ofgem and government found that 36% of those who had made a complaint to their energy supplier in the last 6 months said that the complaint had not been resolved by their energy supplier. Additionally, follow-up qualitative interviews revealed that a number of consumers were unsatisfied with the resolution of their complaints.
- 3.15 Our September RFI indicated that customers of all sizes were making complaints to their supplier, which we discuss in section 2 (Standards of Conduct). As part of supplier responses to the RFI, we also received median complaint resolution time data in days, provided to us for each consumption band, for each month between 1 September 2021 to 31 August 2023. The September RFI data showed that, on average, complaints were taking multiple weeks to resolve (but less than 8 weeks), and non-Micro Business Consumers were facing similar or longer average resolution times than Micro Business Consumers, as shown in Figures 3.1 and

³³ The Gas and Electricity Regulated Providers (Redress Scheme) (Amendment) Order 2014 <https://www.legislation.gov.uk/ukxi/2014/2378/made> and its associated Impact Assessment <https://assets.publishing.service.gov.uk/media/5a7db88de5274a5eb14e6c7e/impactassessment.pdf>

3.2.³⁴ Median resolution times generally increase up to consumers with annual consumption of 500,000 kWh, before dropping, then continue to rise again as consumption passes 1,000,000 kWh.

Figure 3.1 – Mean and median resolution times for Non-Domestic complaints, by consumption band, power³⁵



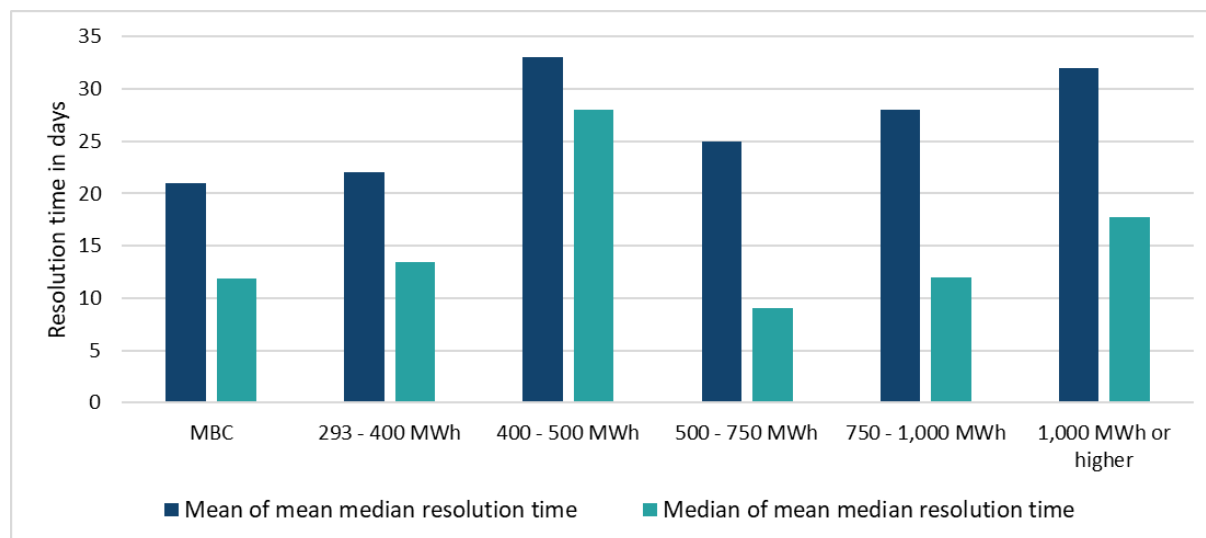
Data table for Figure 3.1

Power	MBC	100 - 200 MWh	200 - 300 MWh	300 - 400 MWh	400 - 500 MWh	500 - 750 MWh	750 - 1,000 MWh	1,000 MWh or higher
Mean of mean median resolution time	21	25	30	27	28	27	30	32
Median of mean median resolution time	12	19	25	18	25	12	25	23

³⁴ Please note that for ease of readability, charts and tables in this document display consumption in Megawatt hours (MWh). 1 MWh is equal to 1,000 kWh.

³⁵ These data were provided to us by suppliers in the form of medians of their monthly complaints resolution time by consumption band between 1st September 2021 and 31st August 2023 (inclusive). To present a market wide figure, we first have averaged the medians across the entire two-year period by supplier and further calculated the median and the mean of the supplier responses by consumption band. This means that there is a risk that the data are not reflective of the true values provided by suppliers due to the layering of averages and medians. As such, the data provided here should be taken as indicative only.

Figure 3.2 – Mean and median resolution times for Non-Domestic complaints, by consumption band, gas³⁶



Data table for Figure 3.2

Gas	MBC	293 - 400 MWh	400 - 500 MWh	500 - 750 MWh	750 - 1,000 MWh	1,000 MWh or higher
Mean of mean median resolution time	21	22	33	25	28	32
Median of mean median resolution time	12	13	28	9	12	18

3.16 We note the data used in Figures 3.1 and 3.2 are mean and median values across all suppliers, so while they show general trends, Figures 3.1 and 3.2 do not reflect in detail the granularity or full breadth of customer experiences. There are many customers who face shorter or much longer resolution times for their complaints. To explore this, Figures 3.3 and 3.4 below show an approximation of the range of resolution times a customer may face, on average, based on RFI data.³⁷

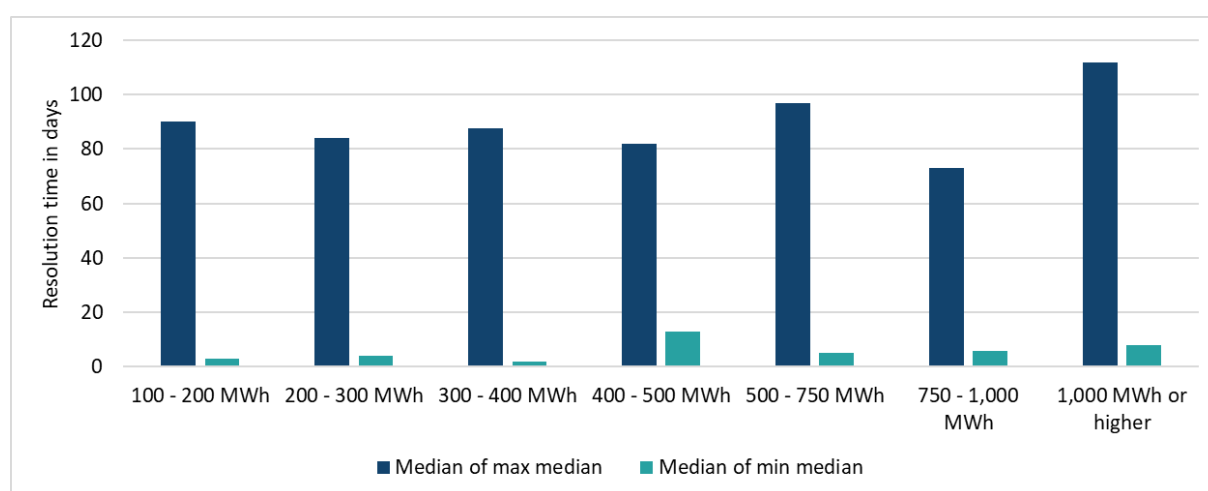
3.17 Figure 3.3 shows a wide variation in resolution times faced by non-Micro Business Consumers across all consumption bands for power complaints, with customers

³⁶ Please see above footnote for Figure 3.1 as the same caveats apply.

³⁷ Figures 3.3 and 3.4 show our calculation of the median of suppliers' maximum and minimum median resolution times for power and gas complaints. We note that to present these values, we have calculated a further median of the maximum and minimum values provided by suppliers. The data were asked for as median values to ensure that the RFI was not overly burdensome on suppliers to provide. We recognise the limitations with presenting medians of median values, and are aware that there will be customers who face either longer or shorter times than the values shown.

who have made complaints facing median resolution times ranging between 2 days and 112 days. Figure 3.4 shows the same for gas complaints, with a range of between 2 days and 96 days. We note these are the generalised ranges reported by most suppliers. When we look at the data given to us individually by each supplier, median resolution times can range from 1 day to 712 days. This data clearly shows that customer experiences can vary significantly.

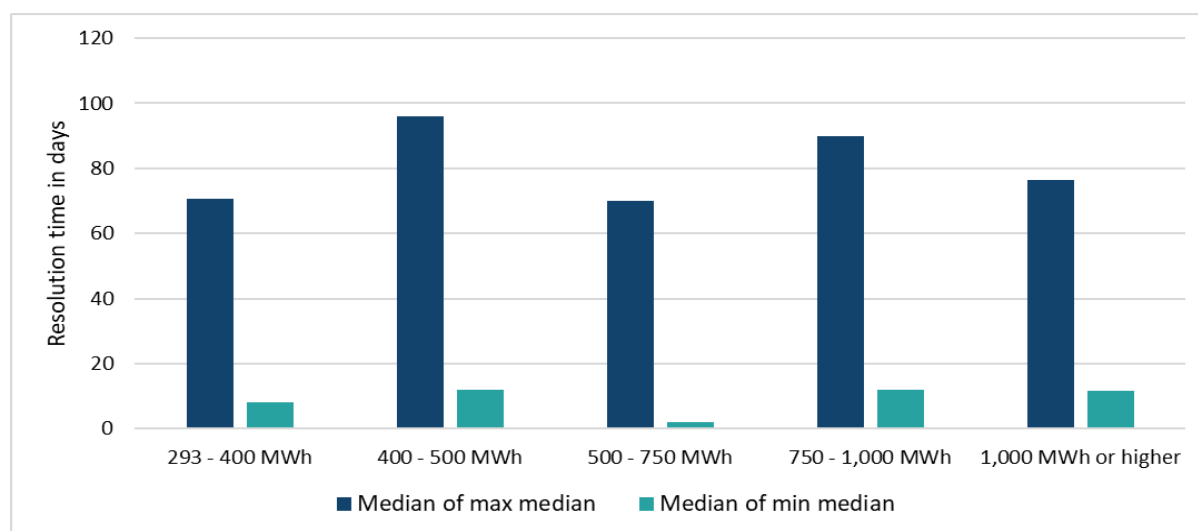
Figure 3.3 - Range of medians of minimum and maximum median resolution times (between 1 September 2021 and 31 August 2023 inclusive) by consumption band across suppliers, power



Data table for Figure 3.3

Power	100 - 200 MWh	200 - 300 MWh	300 - 400 MWh	400 - 500 MWh	500 - 750 MWh	750 - 1,000 MWh	1,000 MWh or higher
Median of max median	90.0	84.0	87.5	82.0	97.0	73.0	111.8
Median of min median	3.0	4.0	2.0	13.0	5.0	6.0	8.0

Figure 3.4 - Range of medians of minimum and maximum median resolution times (between 1 September 2021 and 31 August 2023 inclusive) by consumption band across suppliers, gas

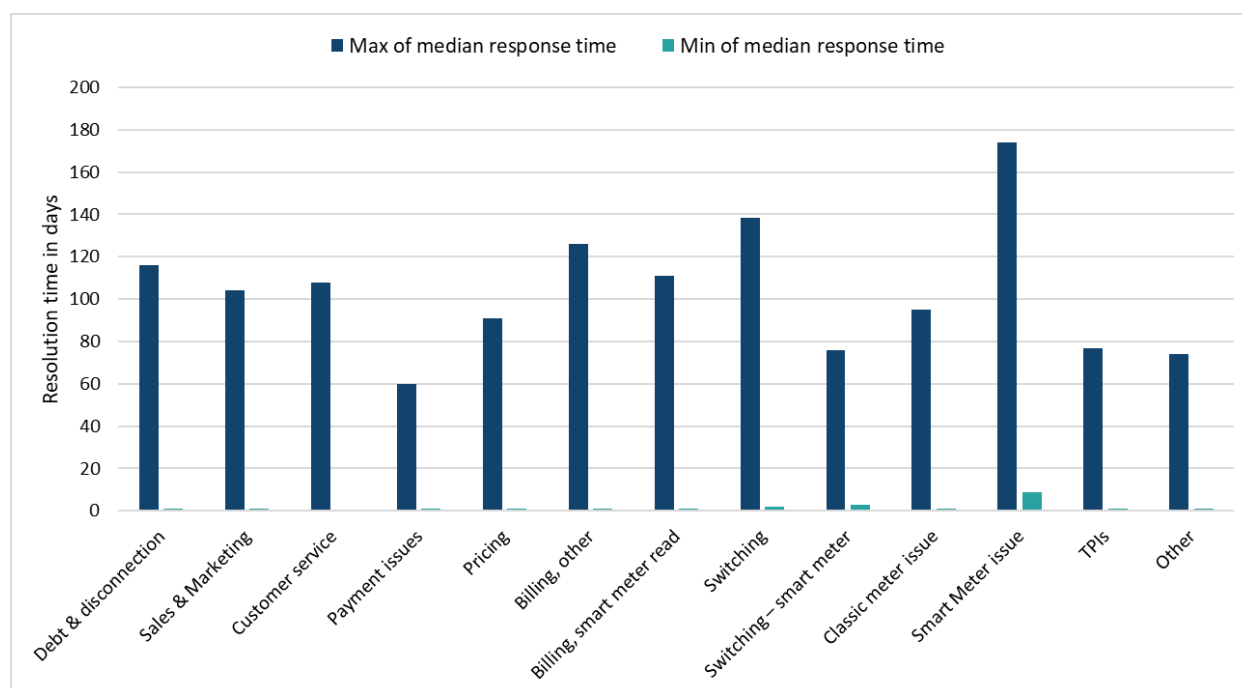


Data table for Figure 3.4

Gas	293 - 400 MWh	400 - 500 MWh	500 - 750 MWh	750 - 1,000 MWh	1,000 MWh or higher
Median of max median	70.75	96	70	90	76.5
Median of min median	8	12	2	12	11.5

3.18 The September RFI responses also provided data on breakdowns of complaints by category for non-Micro Business Consumers between 1 September 2022 and 31 August 2023. Figure 3.5 below highlights the potential range of resolution times a non-Micro Business Consumer may face, on average, for power and gas complaints combined. The data shows wide variation in complaints resolution times across different categories, with complaints about smart meter issues taking longest to resolve with a maximum median of 174 days and minimum median of 9 days, and complaints about payment issues having the shortest range between 1 and 60 days.

Figure 3.5 – Range of minimum and maximum median complaint resolution times (between 1 September 2022 and 31 August 2023 inclusive) by complaint category³⁸, power and gas combined



Data table for Figure 3.5

	Debt & disconnection	Sales & Marketing	Customer service	Payment issues	Pricing	Billing - other	Billing - Smart meter read	Switching	Switching - smart meter	Classic meter issue	Smart meter issue	TPIs	Other
Maximum of median resolution time	116.0	104.0	108.0	60.0	91.0	126.0	111.0	138.5	76.0	95.0	174.0	77.0	74.0
Minimum of median resolution time	1.0	1.0	0.5	1.0	1.0	1.0	1.0	2.0	3.0	1.0	9.0	1.0	1.0

3.19 In general, we found suppliers are resolving complaints within 8 weeks, indicating this timeframe is achievable for suppliers, on average. We would expect the majority of complaints to be resolved much sooner than this. However, the RFI data highlights that there are a significant number of complaints either taking

³⁸ For more information on complaint categories, see the following Guidance: Guidance on submitting customer complaints data <https://www.ofgem.gov.uk/publications/guidance-submitting-customer-complaints-data> (Note there are some minor differences between the categories in the Guidance and the ones included in this report due to this RFI relating to non-domestic consumers only rather than domestic).

longer than 8 weeks to get suitable resolution, or not being resolved after 8 weeks, with around 29% of all complaints between 1 September 2022 and 31 August 2023 falling into these categories.³⁹

- 3.20 We note that some issues may mean businesses cannot trade for a period of time, and it is imperative that issues are resolved swiftly. We expect suppliers to handle complaints as efficiently as possible, and also to ensure to keep customers informed throughout the complaint process.
- 3.21 We are concerned about the number of complaints not being resolved within this 8-week period. While we recognise the feedback from suppliers who cautioned that larger customers are likely to have more complex issues and therefore complaints may take longer to resolve, the data is showing lengthy resolution time can also happen at the smaller end. The data also shows that customers' experiences with making complaints with their supplier can vary significantly. These smaller customers who are not able to easily access legal routes would benefit from being able to take a case to the Energy Ombudsman if the supplier cannot resolve their case in a timely manner or to the customer's satisfaction. If government does expand access to the Energy Ombudsman, it is important that these customers' complaints are handled according to consistent rules to ensure they are handled appropriately. This will support supplier and Energy Ombudsman processes and records, Ofgem's monitoring purposes, and allow customers to have improved experiences with complaints processes.
- 3.22 We recognise supplier concerns that the prescriptions under the CHS may interfere with the different way large businesses or I&C customers are managed. We consider that suppliers should be logging issues its customers experience, so it can understand where improvements may be necessary. We acknowledge that setting prescriptive requirements on how complaints should be recorded and handled may not be suitable for those largest businesses. We also understand that many suppliers already handle complaints from small or medium businesses in line with how they handle Micro Business Consumer complaints. Given the strong feedback that the CHS should not apply to I&C, we are minded to expand

³⁹ The complaints numbers data were provided to us on a monthly basis by suppliers between 1st September 2022 and 31st August 2023 (inclusive) and aggregated to provide total complaints numbers. This poses challenges to the calculation of the percentage of complaints not resolved after eight weeks and those resolved after eight weeks categories, against total complaints, to produce the figure above. For example, where a complaint is not resolved after eight weeks but which may later be resolved, it may be included in one month's results, but then be removed from later periods. Thus, the above figure should be taken as an indicative figure in absence of further data allowing us to delineate whether individual complaints in these categories are resolved.

the CHS to Small Business Consumers in line with government’s proposals to expand the Energy Ombudsman access. We note that through further engagement, one supplier reported they find customers with below 500,000 kWh annual consumption have similar queries and issues to their Micro Business customers, and several suppliers agreed that this threshold wouldn’t include I&C customers but would ensure to capture Small Businesses.

Costs of implementation

3.23 The total set up and annual ongoing costs of suppliers expanding to their natural thresholds⁴⁰ is estimated to be around £1.9m and £1.1m respectively. This equates to around £13.90 per non-Micro Business Consumer for set up costs, and £8.54 per non-Micro Business Consumer for annual ongoing costs. However, the supplier’s natural thresholds may differ from the threshold of Small Business Consumers. Therefore the costs provided by suppliers may not be an accurate reflection of the true cost of this proposal. Please see our accompanying draft impact assessment for more information.⁴¹ We consider the benefits outlined above and in our impact assessment outweigh the costs provided here.

Applying our proposed changes

3.24 We expect to make our final decision on our proposals in spring 2024. As the CHS is secondary legislation, implementation will be dependent on the outcome of government proposals and parliamentary processes. While we are unable to provide a definitive timeframe, if we decide to proceed with our proposal we expect the CHS could be implemented from summer 2024-autumn 2024 and would keep stakeholders informed of progress.

3.25 Assuming the above timeframe, we propose that the amended CHS should come into force 3 months from the date of our final decision. This is in line with our previous position when the CHS were first introduced for domestic and Micro Business Consumers in July 2008.⁴² If we proceed with our proposals we expect suppliers to set up processes to be able to comply with the CHS as soon as the relevant legislation takes effect.

⁴⁰ The threshold at which suppliers indicated their complaints processes or criteria changed.

⁴¹ <https://www.ofgem.gov.uk/publications/non-domestic-market-review-findings-and-statutory-consultation>

⁴² <https://www.ofgem.gov.uk/publications/complaint-handling-standards-decision-july-2008>

- 3.26 We indicated in our July policy consultation⁴³ that we plan to increase our monitoring of suppliers in the Non-Domestic sector and intend to engage with suppliers before any ongoing RFI is implemented. We discuss increased monitoring further in section 7. Whether we take our proposals on the CHS forward or not, we expect to start working with suppliers from January 2024 to develop an ongoing Non-Domestic RFI. If we proceed with amending the CHS this would require us to work with suppliers to update our existing Guidance on submitting consumer complaints data.⁴⁴
- 3.27 We consider that expansion of the CHS will be helpful for suppliers to understand some of the information we will be monitoring and ensure information is consistently captured across the market.

⁴³ <https://www.ofgem.gov.uk/publications/non-domestic-market-review-findings-and-policy-consultation>

⁴⁴ <https://www.ofgem.gov.uk/publications/guidance-submitting-customer-complaints-data>

4. Signposting to relevant customer support services

Section summary

We received reports that Micro Business Consumers could benefit from being specifically signposted to support services. We are proposing to add a licence condition requiring suppliers to inform customers who are within the statutory remit of Citizens Advice and Citizens Advice Scotland that they are eligible for this service.

Questions

- Q10. Do you agree with our proposal to require suppliers to inform their Micro and Small Business Consumers (if this is applied) that they can access, and how to contact, Citizens Advice and Citizens Advice Scotland? Please provide a reason for your view.
- Q11. What measures would suppliers intend to take to meet the obligation to signpost Small Business Consumers to Citizens Advice, and how would this impact costs?
- Q12. Do you have any comments on our proposed draft licence text for SLC 20.5A and 20.4A in the gas and electricity supply licences respectively? The proposed definition of Small Business Consumer includes Micro Business Consumers. However, do you think it would be preferable to explicitly set out in the licence condition that suppliers should signpost Micro Business Consumers and Small Business Consumers to Citizens Advice for the avoidance of doubt?
- Q13. Do you agree with our proposed implementation timeframe of 3 months from the date of our final decision?

What policy change did we suggest in July?

- 4.1 Suppliers are required to signpost to their domestic customers how to seek impartial advice from Citizens Advice consumer services.⁴⁵ However, there is no equivalent requirement to signpost to Citizens Advice⁴⁶ for Micro Business Consumers, even though they can access the same support available to domestic customers. Citizens Advice raised concerns to us that Micro Business Consumers may not be aware of the support available to them as the number of contacts Citizens Advice received from these customers was low.

⁴⁵ SLC 31G of the Electricity and Gas supply licences.

⁴⁶ In this document, where we refer to signposting to Citizens Advice this should be read as signposting to Citizens Advice and Citizens Advice Scotland.

- 4.2 We considered there was a clear gap in signposting obligations. We therefore asked for stakeholder views on a proposal to introduce a licence condition requiring suppliers to signpost Micro Business Consumers to Citizens Advice.

What stakeholders said

- 4.3 The majority of stakeholders who responded to this question were supportive of introducing a licence condition to signpost Micro Business Consumers to Citizens Advice. A small number of respondents considered Micro Business Consumers were already aware of support and so a specific rule was not needed.
- 4.4 Some suppliers stated they believed Micro Business Consumers are already aware of support available, however most of these suppliers would still support a specific rule to signpost to Citizens Advice and the majority of suppliers were supportive of our proposal overall. Several considered that if a licence condition was introduced it should not be prescriptive, or should form part of best practice or guidance, to allow suppliers flexibility in how they signpost the information.
- 4.5 Citizens Advice stated that Micro Business Consumer contacts make up a small portion of their overall contacts, which is a lower proportion that they would expect given the numbers of customers. Also, when they do make contact, they are usually in extremely difficult situations such as a complex customer service complaint, or are about to be disconnected.
- 4.6 Some stakeholders suggested the information should be provided on bills, and that bills should be provided more regularly, whereas others cautioned that the information should not get lost amongst other information which is also provided on bills. Several stakeholders, including suppliers, trade bodies and consumer support groups noted that Ofgem and Citizens Advice could also do more to help bring awareness to customers.

What is our proposed licence change now?

- 4.7 After assessing consultation responses, we propose to introduce a licence condition which requires suppliers to inform their Small Business Consumers that they are eligible to access Citizens Advice and how to contact them, and for this information to be provided at least annually. We are proposing this should be inserted as SLC 20.4A in the electricity supply licence and SLC 20.5A in the gas supply licence. Please see Appendix 1 for draft licence text. For avoidance of doubt, the proposed definition of a Small Business Consumer is inclusive of Micro Business Consumers.

Reasons for our proposal

- 4.8 We note that in July we consulted on introducing a licence condition to signpost Micro Business Consumers to Citizens Advice. However, government’s proposed expansion of access to the Energy Ombudsman may also expand the scope of the service Citizens Advice provide to Small Business Consumers. We are engaging with government and Citizens Advice to understand how our combined proposals may impact Citizens Advice. We consider it is important to align proposals to ensure consistency and have therefore broadened the scope of our proposal to include Small Business Consumers to ensure customers who are able to access Citizens Advice’s services are appropriately informed of this right. If the anticipated change to Citizens Advice’s scope does not occur, we will reflect accordingly.
- 4.9 Given the above, our proposal would allow Small Business Consumers to be able to access appropriate advice at an earlier stage of their issue, which could help resolve an issue sooner, for example before a complaint has reached an advanced stage and their business continuity has been affected. Research commissioned by Citizens Advice and Ofgem to understand the impact of Covid-19 on Microbusinesses found that few Microbusiness Consumers sought external support when they had a problem with their supplier.⁴⁷ Barriers to seeking external assistance included confidence they could handle an issue themselves, feeling that they were powerless in dealing with the energy company, or a lack of awareness of available support. We consider adding this licence condition will be a low-impact change on supplier processes which will enable customers to make better use of support and advice services. With the proposed widening of access to Small Business Consumers, we do not anticipate significant change to stakeholder views or a significant change in suppliers expected costs as a result of aligning with government’s proposals.
- 4.10 We are proposing that this information should be provided at least annually. This is in line with equivalent conditions for domestic customers outlined in SLC 31G.9. However, based on the responses received, we are not proposing prescriptive requirements on how suppliers should signpost this information. Suppliers should consider how they can best signpost this to their customers, to clearly draw it to

⁴⁷ 30 Micro Businesses were interviewed three times between January 2021 and June 2021, to understand the challenges they faced as a result of the Covid-19 pandemic. The research is published here: <https://www.ofgem.gov.uk/publications/impact-covid-19-microbusinesses-longitudinal-research>

their attention. This could include, but is not limited to, signposting on supplier websites, on bills, and/or on other communications. While we would expect in many cases suppliers would use multiple methods to signpost this information, we have not specified where and when in the condition. This will allow suppliers to have the flexibility to determine the most appropriate way of complying with the SLC which takes the needs of their customers into account. We would also expect suppliers to ensure that any customer service agents are suitably trained to provide this information.

Costs of implementation

- 4.11 Responses to our September RFI indicated this change would be low-cost, particularly if we did not add prescription to the condition.
- 4.12 As discussed in our associated Impact Assessment, the costs to require suppliers to signpost to Micro Business Consumers are estimated to cost an estimated set up cost of £268,000 (£0.14 per Micro Business Consumer) and ongoing cost of £23,000 (£0.01 per Micro Business Consumer) per year. We consider the benefits discussed outweigh these costs. However, since our proposal is to require suppliers to signpost to all Small Business Consumers, these costs may be higher. We invite suppliers to identify the measures they intend to take to comply with this obligation and the costs associated with these measures. This will assist us when we make our decision.

Applying our proposed changes

- 4.13 We propose that suppliers should ensure they are signposting their Small Business Consumers to Citizens Advice 3 months from the date of our final decision, if we decide to proceed with our proposal. This is to allow suppliers to conduct reviews of their communications and make any required back office changes, in particular for those suppliers who do not currently have Micro Business Consumers. This would correspond to implementation in summer 2024, assuming a spring 2024 decision. However, we encourage suppliers to act much sooner. We expect suppliers can signpost this information prominently on their websites quite quickly and then can continue to explore implementing in other ways – such as on bills - in the longer term, as we expect suppliers would need to use multiple channels to signpost this information to their varied customer base.
- 4.14 We are encouraged to see that many suppliers already signpost to Citizens Advice for their Micro Business Consumers on bills and on their website, as demonstrated in supplier consultation responses and RFI returns. If there is a positive outcome of the government’s consultation, we expect these communications to be

modified to include Small Business Consumers. But, as consumer groups have informed us of low levels of awareness, suppliers may wish to review their communications to ensure their current signposting, if they have it, is effective. We are also aware that some suppliers who do not have Micro Business Consumers may need to make more significant changes, and while we are not proposing prescriptive requirements, this informed our proposed 3-month implementation timeframe.

- 4.15 In response to several suggestions from stakeholders, we also plan to engage with Citizens Advice to explore what more can be done to raise awareness to customers who are eligible to access its services.

5. Third Party Intermediary redress scheme membership

Section summary

Currently Micro Business Consumers who have an unsettled dispute with their TPI can seek alternative redress via a Qualifying Dispute Settlement Scheme (QDSS). Suppliers must ensure any TPI they are working with, who work with Micro Business Consumers, must be registered with a QDSS. We are proposing to expand this rule on suppliers to require that any TPI they are working with for a Small Business Consumer must be registered with a QDSS. This is to align with government's proposal to expand access to the energy suppliers redress scheme to Small Business Consumers. This would avoid confusion for Small Business Consumers as they would know they have access to redress schemes for energy disputes, whether it is to resolve disputes with an energy supplier or a TPI.

Questions

- Q10. Do you agree with our proposed change? Please provide comments to support your answer.
- Q11. Do you agree with the wording of the proposed licence condition changes outlined in Appendix 1?
- Q12. Do you have any comments on the suggested implementation timescale of 8 months?

What policy change did we suggest in July?

- 5.1 The current requirements on suppliers are that they can only work with TPIs representing Micro Business Consumers if that TPI is signed up to a redress scheme, or a Qualifying Dispute Settlement Scheme (QDSS), often referred to as an Alternative Dispute Resolution (ADR) scheme. In our July consultation, we proposed expanding this rule to a wider group of Non-Domestic Customers, to better support customers. Responses to our Call for Input and other stakeholder engagements had shown that businesses greater than Micro Businesses can similarly struggle to reach a satisfactory solution to issues with TPIs. One option we proposed was to expand our existing rule to all Non-Domestic Customers, and another was to expand to a more limited section of the Non-Domestic market that would exclude large customers.

What stakeholders said

- 5.2 Responses noted TPIs offer a valuable service to the Non-Domestic market and contribute significantly. Responses in support of expanding redress scheme access beyond Micro Businesses cited some of the issues customers are facing in the Non-Domestic market when using TPIs. These included: pressure selling, mis-selling and lack of transparency. Respondents believed access to dispute resolution would allow customers to seek redress after facing poor treatment from TPIs, increase accountability, and incentivise quicker complaint resolution. All stakeholder groups apart from TPIs were in favour of expanding access to dispute resolution beyond Micro Business Consumers.
- 5.3 Responses that were not in support of expanding the current rules mostly came from TPIs. They cited that costs are high for membership of an ADR scheme and subsequent case fees. A small number of TPI respondents believed the Energy Ombudsman scheme to be ineffective. Other responses, including those from suppliers, highlighted that the largest businesses can manage disputes effectively and would not need access to dispute resolution. They believed the costs of expanding dispute resolution to be disproportionate to the risks to the largest businesses. Suppliers and TPIs noted the burden of assuring quality of a QDSS falls to them and this is costly and should be done by the regulator. A small number of responses noted the expansion of the scheme would lead to increased costs for consumers as TPIs may pass costs onto their customers.
- 5.4 Suppliers offered a range of timescales required for effective implementation. These ranged from 6 months to 2 years. Many respondents did not provide a specific implementation time but suggested “a long time”, due to the number of TPIs in the market and the time needed to identify qualifying customers.

What is our proposed licence change now?

- 5.5 We are proposing a limited expansion of our existing rule that states suppliers must only work with TPIs securing contracts with Micro Business Consumers that are signed up to a QDSS. We are proposing to expand this to align with the government’s proposed expansion of access to the Energy Ombudsman scheme⁴⁸, to a new defined ‘Small Business Consumer’ scope. The proposed Small Business Consumer definition is: ‘a Non-Domestic customer is defined as a Small Business

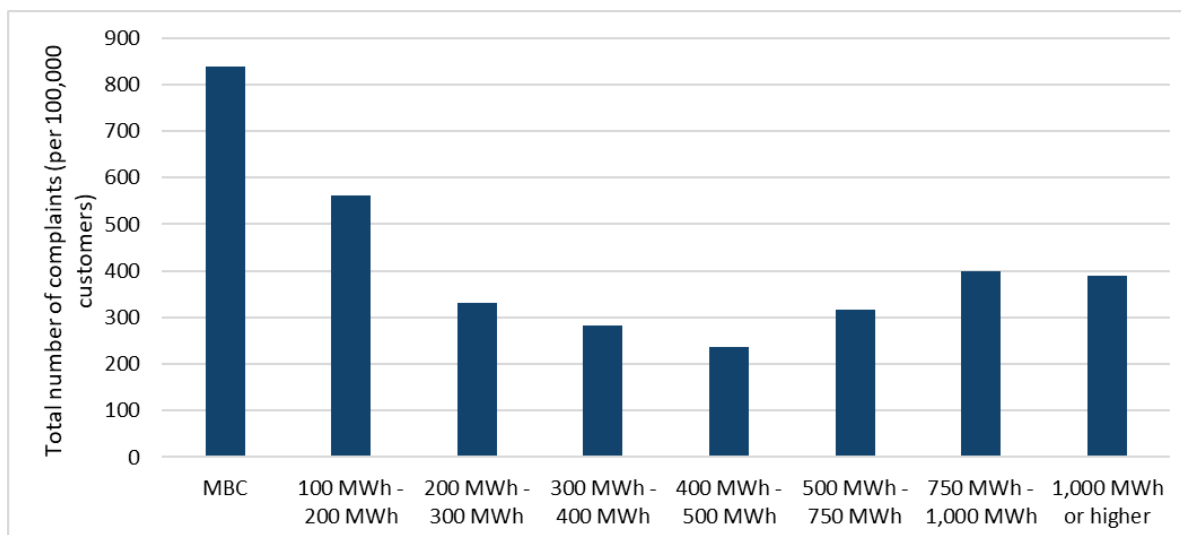
⁴⁸ <https://www.gov.uk/government/consultations/new-threshold-for-businesses-accessing-the-energy-ombudsman>

Consumer if they: employ fewer than 50 employees (or their full time equivalent) **and** has an annual turnover no greater than £6.5 million or balance sheet total no greater than £5.0 million; **or** uses no more than 500,000 kWh of electricity per year; or uses no more than 500,000 kWh of gas per year.’

Reasons for our proposal

- 5.6 There are several benefits of access to dispute resolution for customers. We note the stakeholder feedback that cited issues customers had faced with TPIs and the overwhelmingly positive support from customer stakeholders for our proposal. The most direct benefit of our proposal is providing a route to resolution to those customers who are in dispute, who may not otherwise have had the resources to secure legal support. If they have been disadvantaged because of a dispute, they can also be provided compensation; this can contribute to a fairer market.
- 5.7 A significant benefit of expanding this requirement to align with the proposed expansion of the Energy Ombudsman is that it is clearer for customers – they would know they are able to access redress schemes if they are a certain size, regardless of whether it relates to a supplier issue or an energy broker issue. If there was a different threshold for accessing redress schemes for disputes with energy suppliers and energy TPIS, it could lead to confusion for business customers. We further note the proposed expansion also aligns with the customer employee numbers that define access to the financial ombudsman, again improving clarity for customers.
- 5.8 In addition, access to dispute resolution incentivises improved quality and standards for the TPI, as repeated penalties for actions not deemed appropriate would be costly and would encourage a positive change in processes. Access to redress can also improve confidence and trust in TPIs as customers know there is an accessible tool to take action if they believe they have been treated unfairly.
- 5.9 TPIs are not subject to sectoral regulation and therefore there is not a single source of information about complaints made to TPIs. To seek more evidence of issues related to TPIs, we asked suppliers about complaints they received that were matters relating to TPIs. The data below shows the number of complaints per 100,000 customers by consumption band for power and gas. For those complaints directed to the supplier when they were related to a TPI, we expect our proposal should result in quicker resolution for customers, as their complaints should be directed to the correct entity more quickly. The expansion of our rule should therefore reduce inappropriate regulatory burden upon energy suppliers.

Figure 5.1⁴⁹ - Number of complaints to Non-Domestic suppliers about matters relating to TPIs per 100,000 customers (who obtain contracts via TPIs), by consumption band, between 1 September 2021 and 31 August 2023 (inclusive), power



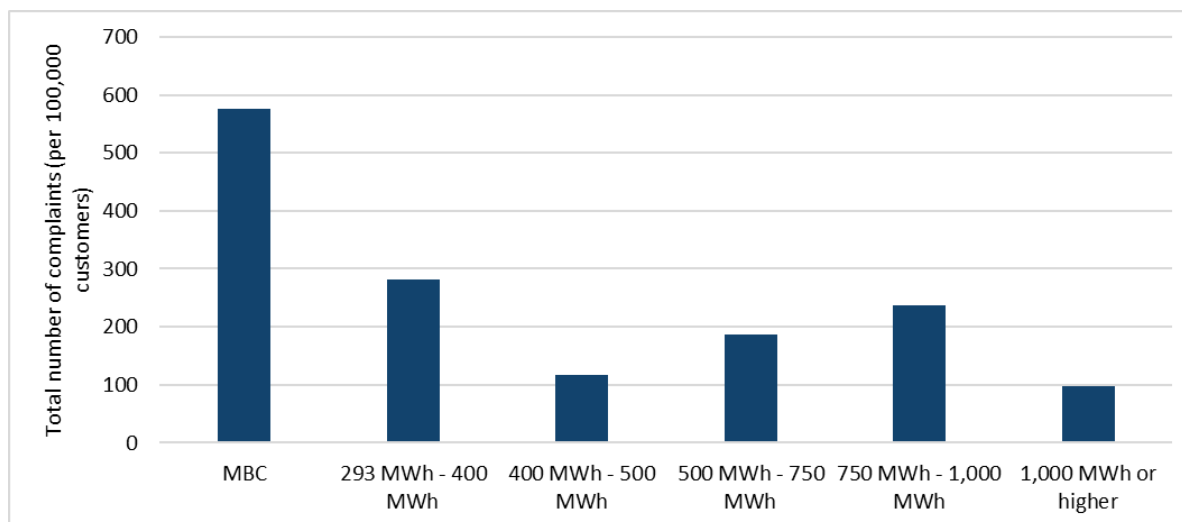
Data table for Figure 5.1

	MBC	100 MWh - 200 MWh	200 MWh - 300 MWh	300 MWh - 400 MWh	400 MWh - 500 MWh	500 MWh - 750 MWh	750 MWh - 1,000 MWh	1,000 MWh or higher
Total complaints relating to TPIs per 100,000 contracted customers	837	561	331	281	236	317	398	389

⁴⁹ Figure 5.1 and 5.2 are based upon the following assumptions:

- The number of complaints for MBCs, relating to TPIs are obtained from the Complaints Micro Business Consumer Request for Information (MBC RFI). This data comes from the question relating to "sales and marketing - sales via a third party" in the monthly MBC RFI.
- The customer numbers (which are based on customer accounts) used as the denominators to calculate the rate of complaints (per 100k customers) is from the non-domestic September RFI.
- For the consumption bands, we have assumed customers above 100 MWh for power and 293 MWh for gas are not Micro Business Consumers (even though some of them with few employees and lower turnover may be).

Figure 5.2 - Number of complaints to Non-Domestic suppliers about matters relating to TPIs per 100,000 customers (who obtain contracts via TPIs), by consumption band, between 1 September 2021 and 31 August 2023 (inclusive), gas



Data table for Figure 5.2

	MBC	293 MWh - 400 MWh	400 MWh - 500 MWh	500 MWh - 750 MWh	750 MWh - 1,000 MWh	1,000 MWh or higher
Total complaints relating to TPIs per 100,000 contracted customers	575	282	117	187	237	97

5.10 We also investigated how the current rules have been helping Micro Business Consumers, although we recognise the scheme is still new as it only began 1 December 2022. For the TPI ADR scheme, under the existing rules, the Energy Ombudsman have been the only redress scheme provider for the first year of the scheme. Over the period from 1 December 2022 to mid-November 2023 the Energy Ombudsman reported 548 accepted cases, of which 345 have received an outcome. Of these, 68% were upheld for the Micro Business Consumer.⁵⁰ We

⁵⁰ This was provided to us by the Energy Ombudsman and is for the period from 1 December 2022 to mid-November 2023

would expect that as more customers become aware of being able to access redress, the numbers of accepted cases could increase. Other providers of redress schemes are free to enter the market. At present we are aware of one other scheme that recently commenced operation, run by the Utilities Intermediaries Association.

- 5.11 We note that the Digital Markets, Competition and Consumers Bill is currently going through parliament. This bill would result in all Alternative Dispute Resolution (ADR) providers needing to be accredited in the future by persons specified by the Secretary of State. Please see the UK Parliament website for more details⁵¹.

Costs of implementation

- 5.12 We have gathered information on the potential costs to suppliers via our September RFI to all Non-Domestic suppliers. Please see our accompanying impact assessment for more information.⁵² The total set up costs to suppliers of extending the rules to work only with TPIs that are members of a QDSS for all Non-Domestic Customers is estimated to be £302,000 (£2.24 per customer above MBC) and the annual estimated ongoing cost is £1m (£7.75 per customer above MBC). However, costs for our preferred option to only expand our rule up to Small Businesses Consumers is likely to differ. We do not have specific costs for this reduced expansion from the September RFI. Some suppliers stated there would be minimal change to costs and two suppliers stated it would cost less to expand access to Small Business customers as opposed to the whole market. A further nine suppliers stated costs would increase if applying the policy to a subset of their customers (due to increased configuration of the systems), and one of these suppliers stated their system would not allow them to only go to a subset of customers.
- 5.13 There will also be costs for TPIs. These include the direct costs of registering for a scheme and changes they may need to make to their business to create complaint management procedures, if they don't already have them. These costs would also include any case fees if a case is brought against them and any compensation costs they may need to pay if found to have mistreated a customer. We note that these costs are already borne by many TPIs who secure Micro Business Consumer contracts, so the extra cost of our proposals would be

⁵¹ <https://bills.parliament.uk/bills/3453>

⁵² <https://www.ofgem.gov.uk/publications/non-domestic-market-review-findings-and-statutory-consultation>

the additional costs relating to the extra number of TPIs who do not place Micro Business Consumers but do place Small Business Consumers.

- 5.14 Because TPIs do not have formal sectoral regulation, we do not know the total number of TPIs in the market, including the number of those who currently provide services to Small Business Consumers but not Micro Business Consumers, who will be newly subject to costs. We consider it very likely these numbers will be significantly lower than the number of TPIs who are already impacted by the existing licence condition relating to Micro Business Consumers. Additionally, the costs of a QDSS such as registration fees or case fees are likely to differ between providers as they are not set under any regulatory framework. The costs may also be subject to change as schemes are able to better forecast costs over time and as the numbers of TPIs that are members of their scheme changes. Therefore, while we recognise quantitatively that there will be costs, we are not able to estimate quantitative costs for the TPIs that will be captured by our proposed expansion. We invite further details from TPIs on the expected costs and impacts for an expansion of access to redress, as well as consideration of the positive benefits this could bring through increasing standards and raising customer confidence in TPIs. Please see question 1 of this consultation.
- 5.15 We consider the benefits discussed above and in our impact assessment outweigh these costs. Please see our accompanying impact assessment for more information.⁵³

Applying our proposed changes

- 5.16 As outlined in the draft licence changes in Appendix 1, we are proposing that suppliers will have to ensure any TPI they are working with on Small Business Consumer contracts must be registered with a Qualifying Dispute Settlement Scheme (QDSS). Customers larger than Small Business Consumers will continue to be able to seek alternative methods of recourse, such as taking the case to court.
- 5.17 We propose an 8 month implementation timeline from the date of the decision being published, this is inclusive of the 56 day standstill period. For example, if we publish our decision on 1 April 2024, TPIs would need to be registered with a QDSS by 1 December 2024. This is in line with the timescales given for implementation for Micro Business Consumers in the Micro Business Strategic

⁵³ <https://www.ofgem.gov.uk/publications/non-domestic-market-review-findings-and-statutory-consultation>

Review.⁵⁴ We consider this will give TPIs sufficient time to ensure they have processes and policies, such as complaints handling procedures, which may be required for registering with a QDSS. We also believe 8 months provides sufficient time for suppliers to have the correct checks in place to ensure they are only working with TPIs registered with a QDSS. We are seeking views on whether the 8 month timescale is appropriate.

⁵⁴ [Microbusiness Strategic Review: Decision to modify the SLCs of all gas and electricity supply licences | Ofgem](#)

6. Third Party Intermediary service fee transparency

Section summary

Currently, suppliers must present Micro Business Consumers who use a Third Party Intermediary, which includes energy brokers, with details on the Third Party Costs paid to a TPI via a supplier energy bill. This must be done in a “lump sum” format where the total expected service fees are presented based on the estimated total consumption for the duration of the contract. These details must be provided in the Micro Business Consumer’s Principal Terms and upon request.

We are proposing the expansion of Third Party Cost transparency and amending the presentation requirements. We are proposing that all Non-Domestic Customers are provided with details of Third Party service fees that are charged via a customer’s energy bill. Fees must be presented as a cost per unit, where it forms part of the unit price of energy, or a cost per day (month) where it forms part of a daily (monthly) standing charge. For Micro Business Consumers they must also present the figure as a lump sum.

Questions

- Q13. Do you agree with our proposed expansion of Third Party Cost transparency to all Non-Domestic customers? Please explain your answer.
- Q14. Do you agree with our proposed methodology of displaying Third Party Costs? Please explain your answer.
- Q15. Do you agree that our proposed timescale for implementation is achievable? Please explain your answer.
- Q16. Do you have any views on whether to retain the presentation of a lump sum for Micro Business Consumers and to have only a cost per unit for all Non-Domestic consumers?
- Q17. Do you have any views on the proposed wording of the supply licence conditions, in relation to this policy? Note that is SLC20.6 in the electricity supply licence and SLC20.7 in the gas supply licence.

What policy change did we suggest in July?

- 6.1 Current rules require suppliers to provide Micro Business Consumers with Third Party Costs, paid as part of their energy bills from suppliers, in their Principal terms, and upon request, as outlined in SLC 20.6 in the gas licence and 20.5 in the electricity licence. In July, we proposed the expansion of these existing requirements for Third Party Costs, or alternatively referred to as service fees, to customers beyond our current requirements. We asked stakeholders whether this

increased transparency should apply to all Non-Domestic Customers or a sub-set, noting our preferred option to all customers.

- 6.2 We asked for further information about how TPI service fees should be disclosed to aid understanding for Non-Domestic Customers. Current requirements mean Micro Business Consumers are provided costs as monies for the duration of the contract, often referred to a lump sum fee of the total TPI costs to be paid over the duration of the contract. We asked if this was still the most appropriate method of disclosure. Other options included a cost per unit or a percentage cost of the total contract price.

What stakeholders said

- 6.3 Some brokers considered the term 'commission', that we used in our July consultation, was misleading and it implied it was the profit that TPIs were making on a contract. They felt the term 'service fee' was more representative of what the cost is. We have therefore changed how we refer informally to this charge from 'commission' to 'service fee'. We note the licences use the term 'Third Party Costs'.
- 6.4 Most responses were in favour of expanding service fee transparency across the whole of the Non-Domestic market. All groups of respondents said service fees should be laid out clearly and consistently and allow for easy comparison. Some individuals felt that this increased transparency would prevent unscrupulous brokers taking advantage of businesses. Most respondents suggested a cost per unit presentation would be the most comparable and clear way of disclosing fees. Some suppliers noted that changing the existing disclosure format from a total service fee, or lump sum amount, for the duration of the contract for an estimated consumption, to a cost per unit fee would increase their costs of implementation.
- 6.5 A minority of responses were against aspects of the policy, mostly TPIs and a small number of suppliers. TPIs and suppliers raised concerns that it should be TPI's responsibility to disclose fees and not an obligation placed upon suppliers. A small number of TPIs felt the policy would be anti-competitive and unnecessary.
- 6.6 Suggestions from suppliers for the time to implement any changes ranged from 4 weeks to 12 months, with several suggesting 6 months to be reasonable, noting this aligned with the time given for implementation in the Micro Business Strategic Review.

What is our proposed licence change now?

6.7 We propose:

- Expanding requirements around service fee disclosure to all Non-Domestic Customers, and for this to be presented as a cost per unit. For example, a cost per unit where it forms part of the unit price of energy or a cost per day (month) where it forms part of a daily (monthly) standing charge. In line with the current rules, this Third Party Cost would be required on Principal Terms and upon request for all Non-Domestic Customers.
- For Micro Business Consumers we propose presenting the costs on a per unit basis, as well as retaining the current rules for the costs to be displayed as a lump sum.

Reasons for our proposal to expand the obligation to all Non-Domestic Customers

6.8 This is our preferred option for several reasons which are set out below. We also provide cost and benefit information in our draft impact assessment, published alongside this document, and seek views on this via Question 1 of this document.

6.9 We are proposing the requirement is extended to all Non-Domestic Customers to increase transparency and knowledge about fees and costs for all consumers, to empower them to better compare supplier costs, and be more aware of any Third Party Costs added to their energy costs. A well-functioning Non-Domestic market requires that contracts be fair and transparent to customers, with consumers being able to understand their terms so they can make the right decisions for their businesses. However, many stakeholders told us that they were not always sufficiently aware of what they are paying to TPIs, such as energy brokers.

6.10 We conducted Non-Domestic consumer research this year⁵⁵ that asked about experiences with TPIs. Many respondents had changed supplier before our current Micro Business TPI service fee transparency rules were introduced, and therefore our findings include experiences before we inserted the Micro Business Consumer rules. We found that a lot of businesses of all sizes who used a TPI were unaware they were paying a service fee, and there was also low visibility of the actual fees being paid amongst those who were aware they were paying fees. Specifically, of those who used an energy broker fewer than 1 in 10 (7%) said that they were

⁵⁵ <https://www.ofgem.gov.uk/publications/non-domestic-consumer-research-2023-interim-findings>.

charged by their energy broker, while more than three-quarters (77%) said that they were not. Nearly one in six did not know whether they were charged by their energy broker (14%), and a handful were not aware that the energy broker applied charges (3%). This research highlights that there is low visibility of TPI service fees.

- 6.11 Sometimes a TPI can charge an upfront fee to a customer for their service. But in many cases, their service fee is paid as part of a customer's energy bill from their supplier, with the supplier then paying the TPI the part of the money received from the customer that is owed to the TPI. Within an energy supply contract, TPI service fees can be applied to the unit price, the standing charge or both, although it is generally more common for it to be applied to the unit price only. Data from the September RFI from suppliers showed that the median TPI service fee⁵⁶ for power ranged from 0.1 to 3p per kWh when part of the unit price, and 0.2p to £108 per day when part of the standing charge. For gas, the ranges were 0.1 to 2p per kWh when the service fee was part of the unit price and 0.2p to £83 per day when it was part of the standing charge. Please note that these figures do not contain details regarding the level of service provided so the range will also reflect a range of TPI services provided, some of which could be significant active management of complex contracts.
- 6.12 When part of the unit price, the median TPI service fees tended to be greater for lower consumption bands, such as for Micro Business Consumers. However, when the TPI service fee was part of the standing charge, the amount generally increased in line with consumption, with the lowest consumption bands having the lowest fees for both power and gas.
- 6.13 We cannot make any assumptions about whether the service fees charged are appropriate or not, as we have not researched the service provided alongside these costs. But we show their ranges to demonstrate that the service fees paid as part of an energy supply contract are not insignificant, especially given the range, and should be made clear to the consumer.
- 6.14 We acknowledge the concerns from suppliers and TPIS regarding the responsibility being placed upon suppliers to disclose Third Party Costs to customers, as opposed to TPIS. We do not have regulatory powers over TPIS and

⁵⁶ Data is for the period of 1 September 2022 and 31 August 2023 and is for fixed contracts only. Data is based on 37 suppliers (of 47 suppliers who used TPIS) who provided median TPI service fees when part of their standing charge, there were 14 suppliers for power and 9 suppliers for gas. Median TPI service fees were provided by consumption band.

cannot mandate such disclosure. We have asked government to look into formal regulation of the TPI market.

- 6.15 We note the Retail Energy Code Company (RECCo), in their TPI Code of Practice,⁵⁷ have suggestions regarding disclosure of TPI fees, but this is voluntary. We also note that some TPIs do already make their service fees clear. Our requirement for suppliers to show Third Party Costs being paid as part of energy contracts does not suggest that TPIs themselves should not be clear on their charges. Instead, we actively encourage this. The Third Party Costs that suppliers disclose should not come as a surprise to a customer, as they should already have been made aware of them from their TPI.
- 6.16 An additional benefit of providing clarity on TPI service fees in this format is it will allow greater clarity on supplier fees. Being able to distinguish between TPI service fees and energy costs in the unit price of energy will also allow consumers to make greater comparisons between suppliers on the unit cost of energy, excluding Third Party Costs.
- 6.17 Anecdotal reports suggest there could be low trust in the TPI market. We think increased transparency could aid in building customers trust in TPIs and the energy market overall. At present some TPIs are disclosing service fees. Making the obligation on suppliers to disclose service fees universal will increase consistency and will likely benefit those TPIs choosing to disclose fees already. A number of TPIs who responded to our consultation stated they provide their customers with clear fees and explanations for the fees, and therefore they stated this policy was unnecessary. We note that not all TPIs are choosing to disclose fees. By ensuring all fees are disclosed for all sizes of Non-Domestic Customers, there is consistency across the market. Those TPIs who already choose to disclose fees will benefit from this decision as they may currently be perceived as higher cost due to current opacity of fees from other TPIs.
- 6.18 We acknowledge concerns from a small number of stakeholders that some suppliers might consider giving undue prominence to Third Party Costs over other information within the Principal Terms. Our proposals in section 2 are for the expansion of the Standards of Conduct licence conditions to all Non-Domestic Customers and as such, SLC 0A.3(b) would apply. This means that with all communications, Non-Domestic suppliers must have regard to SLC 0A.3(b) when presenting key information to consumers. In other words, we expect information

⁵⁷ [RECCo publish Third-Party Code of Practice - Retail Energy Code Company](#)

such as charges for supply to be given due prominence alongside TPI service fee costs, and other key information, and that TPI services fees should not be given undue prominence in line with SLC 0A.3(b).

Applying a cost per unit value

- 6.19 As outlined in the Micro Business Strategic Review (MBSR)⁵⁸, we made the decision that suppliers must disclose fees as lump sum monies for Micro Business Consumers, for the length of the contract. This was based upon feedback that this would be best understood by a Micro Business Consumer. This requirement has been in place over a year now, since the 1 October 2022. We have been notified that suppliers and TPIs can use different methods of estimating predicted usage. There is no 'usual' consumption value as we have with domestic customers. If the estimated usage can vary significantly across contract offers, looking at a lump sum value can make it harder for customers to compare TPI service fees across energy contracts. In addition, a handful of TPIs have said to us that having one figure disclosed across the duration of the contract can be misleading for some customers, as the cost will be significantly higher for a 3 year contract than a 1 year contract. A customers could sign a 1 year contract, due to fees appearing lower, when this may not be the best energy deal for them.
- 6.20 Additionally, we have received reports, both in response to the Non-Domestic market review and following the implementation of the MBSR, that some individuals were manipulating the lump sum fee disclosure figure. For example, deliberately underestimating the total energy use of a Micro Business Consumer for the terms of the contract to make the service fees look lower.
- 6.21 A small number of suppliers requested less prescription on how fees are disclosed. However, to ensure consistency and comparability, we consider a defined method of disclosure is the most appropriate policy.
- 6.22 For these reasons we are proposing that Third Party Costs should be disclosed as a cost per unit; per unit of energy or per day/month standing charge, as relevant. This is how the majority of contracted energy supply rates are quoted, so this allows for greater consistency and thus easier comparison between contracts.

⁵⁸ [Microbusiness Strategic Review: Decision to modify the SLCs of all gas and electricity supply licences | Ofgem](#)

Reasons for our proposal to retain the lump sum value for Micro Businesses, in addition to applying the cost per unit for Micro Business Consumers

6.23 For the reasons above, we believe that requiring Third Party Costs to be displayed as a cost per unit will allow better comparisons and reduce the ability for the displaying of fees to be manipulated. We, therefore, wish to bring this rule to Micro Business Consumers as well. However, before removing the existing lump sum display rule, we wish to test more directly with the customers who are currently seeing a lump sum value about whether they find this additional information helpful, in addition to the cost per unit rate. We are exploring additional research on this and will use this, as well as responses to this consultation, to inform our final decision on whether to remove the lump sum display currently required for Micro Business Consumers and only retain a per unit charge. Until then, our draft licences retain the lump sum part of the existing rule.

Costs of implementation

- 6.24 We received feedback from suppliers that the costs of expanding to all consumers are reasonably low and a small number of suppliers suggested it would be more costly to introduce this requirement to another sub-set of consumers (for example Small Business Consumers) due to the cost of identifying the consumers and excluding those it did not apply to. Some noted they would in any event apply the regulations to all consumers.
- 6.25 To implement changes to the way TPI service fees are currently required to be presented to Micro Business Consumers (from a lump sum estimate) in the Principal Terms of a contract, we have estimated a one-off total cost to Non-Domestic suppliers of £1.8m, which equates to an average (weighted mean) cost of £0.93 per Micro Business Consumer. Extending the TPI service fee disclosure requirement to all Non-Domestic Customers we estimate that it could cost £1.7m to set-up with an ongoing estimated annual cost of £263,000 to the market.
- 6.26 We consider the benefits discussed above and in our impact assessment outweigh these costs. Please see our accompanying impact assessment for more information.⁵⁹

⁵⁹ <https://www.ofgem.gov.uk/publications/non-domestic-market-review-findings-and-statutory-consultation>

Applying our proposed changes

- 6.27 Our proposed changes to the relevant licence conditions for the standard gas and electricity supply licences can be seen in Appendix 1. These cover proposed changes to SLC 20.6 in the electricity licence and SLC 20.7 in the gas licence. As highlighted in our July policy consultation⁶⁰ we proposed moving this obligation from SLC 7A.10C. The basis for this is that SLC 7A (including 7A.10C) applies only to Micro Business Consumers, and our amendments propose placing the requirements on all Non-Domestic Customers. Therefore, we consider it appropriate to move it out of the section that only applies to Micro Business Customers. Additionally, SLC 20.5 in the electricity licence and SLC 20.6 in the gas licence are conditions relating to suppliers working with TPIs, therefore, we consider it appropriate to place these conditions next to each other in the licence.
- 6.28 Our licence requirement on suppliers' Third Party Cost disclosure will be on contracts signed on or after the implementation date specified in our decision. As is usual for our licence changes, our obligation would not be backdated. This does not preclude suppliers that hold historical data providing information if they wish to or under another obligation outside our sectoral remit. However, our licence obligation on them to provide this information will only apply from the specified date.
- 6.29 We are proposing a 6-month implementation timeline from the date of the decision being published, this is inclusive of the 56 day standstill period. This should allow sufficient time for suppliers to implement the processes to enact this change. We welcome views on this proposed maximum implementation time.

⁶⁰ [Non-domestic market review: Findings and Policy consultation | Ofgem](#)

7. Update on other work in progress

Section summary

This section provides an update on additional areas of work that Ofgem are undertaking in the Non-Domestic market that do not require licence changes at this stage. It covers the Deemed Contract Guidance and enforcement work, the change of tenancy process streamlining project, improving billing transparency, and the work to help domestic consumers supplied via a Non-Domestic supply contract. It includes a summary of responses for these topics from our July consultation.

Deemed Contract Guidance and Enforcement

- 7.1 In our July consultation, we sought feedback from stakeholders on a draft Guidance on Deemed Contract rules. After considering stakeholders views, we published the final Guidance⁶¹ in November this year. This provides suppliers with guidance on acceptable behaviours and conduct when setting deemed contract rates with respect to SLC 7.3 and 7.4. The document also provides key guidance for stakeholders on the differences between "Out-of-Contract" and deemed rates.
- 7.2 We set out here the responses we received from stakeholders and the changes we made as a result.

Stakeholder views and changes made to the draft Guidance

- 7.3 The definition of the term "significantly exceeds" was controversial, but overall, a slight majority of stakeholders agreed with it. Many stakeholders argued that there should be a numerical element to the definition, similar to that of the price cap, or that deemed rates should be capped to a certain percentage higher than a supplier's equivalent contract rate. We do not directly regulate suppliers pricing in the Non-Domestic market, and in light of this, these approaches would not have been appropriate.
- 7.4 Many respondents highlighted that there were still certain elements of the definition that were open to interpretation. In response to this feedback, we have provided additional elements to the Guidance on the meaning of significantly exceeds to increase clarity for stakeholders. Many stakeholders were pleased that our definition took into account the differing costs between deemed customers and contracted customers, for example, bad debt. It was made clearer in the final

⁶¹ The final Guidance on Deemed Contracts can be accessed at <https://www.ofgem.gov.uk/publications/guidance-deemed-contracts>

Guidance document that these costs are assessed as per the suppliers' own costs and not as a comparison across the market. It was also highlighted that the example of a fixed term contract (sections 2.22-2.24 of the final Guidance) was only an example, in response to stakeholder concerns that a comparison against a fixed term contract may not be appropriate for all suppliers (for example, because they do not provide fixed contracts). A few responses noted that they would like further guidance on the difference between "Out-of-Contract" (OoC) and deemed rates, and this was implemented.

- 7.5 We asked stakeholders whether they agreed that deemed rates should be reviewed quarterly, in line with our view that this approach balanced the need for flexibility for suppliers with certainty for customers on deemed rates. Overall, the majority of stakeholders agreed with this proposal. Some were of the view that the review period should be every 6 months, and some argued that deemed rates should be reviewed monthly, but these options were not selected. It was considered that this minimum quarterly review, with the addition that this can be done more frequently in light of market volatility, provides certainty for customers but enough flexibility for suppliers to amend their deemed rates if prices fluctuate significantly.
- 7.6 We asked stakeholders whether they thought there were any unintended consequences for domestic customers from the Guidance. Many responses stated that they did not know if there was any impact. Most responses noted that domestic customers were protected by the price cap. A few responses noted that there could be unintended consequences of the Guidance on the domestic market, and that if the price cap was removed, this could have consequences also. Some argued that the domestic market should not be covered by the Guidance, however, the SLC covers both domestic and Non-Domestic Customers. A change was made in the final Guidance to note the interaction with the price cap. We will keep this aspect under review and will update our Guidance as and when required. One response noted that Deemed Contract Guidance was positive, as they considered that it would encourage further outreach to disengaged customers on deemed rates.
- 7.7 We asked stakeholders if they had any other comments on the Deemed Contract Guidance. Many responses simply agreed that we should take action in the area of deemed rates. We have actioned this by publishing the final Deemed Contract Guidance as well as completing compliance and enforcement work on SLC 7.3, which is discussed further in the following section.

- 7.8 One response highlighted that it was unclear how and by whom deemed rates are regulated, which has been made clearer following the publishing of the Guidance and the compliance and enforcement work. A handful of respondents argued that SLC 7.3 and 7.4 of the gas and electricity supply licences should be modified instead of a guidance document being created. Although this will be kept under review, at this time, we are of the view that a modification to the SLC is not required as we have published the final Guidance on deemed rates, which provides further clarity on the SLC.
- 7.9 There were also many requests for additional clarity on certain terms within the Guidance, such as OoC and deemed rates. Additional consideration was also requested to be paid to certain pricing elements, for example, within the definition of relevant classes of consumers. We added further clarification in the Guidance to address these comments. It was also highlighted by stakeholders that deemed rates should not be made too attractive to customers – but we reminded suppliers that it is important to note that deemed rates must be in line with the SLC.

Compliance and Enforcement

- 7.10 We have been investigating deemed rates and compliance with SLC 7.3 across the Non-Domestic market. Compliance and enforcement work is taking place. Ofgem has launched an investigation into whether BES Commercial Electricity Ltd and Business Energy Solutions Ltd (together BES) are in compliance with the rules that ensure deemed rates are not unduly onerous for customers, that is SLC 7.3.⁶² We have also opened an investigation into Maxen Power Supply Limited with respect to their compliance with SLC 7.3, as well as SLC 0A, 4A, 7A, 14 and 14A.⁶³ We are continuing to investigate whether other suppliers deemed rates are in compliance with the SLCs and will not hesitate to act where we find instances of non-compliance.

Change of tenancy process streamlining

- 7.11 We received reports of excessive and inconsistent documentation requested by suppliers to prove a Change of Tenancy (CoT) / Change of Occupier (CoO), and that the documents that are requested to prove a CoT/CoO varied hugely between suppliers. This has the potential to cause significant delays when trying

⁶² [Investigation into BES and its compliance with Standard Licence Condition 7.3 | Ofgem](#)

⁶³ [Investigation into Maxen Power Supply Ltd and its compliance with its obligations under SLCs 0A, 4A, 7A, 7.3, 14 of the Electricity and Gas Supply Licences | Ofgem](#)

to secure a new contract. The change of tenancy indicator is flagged via industry processes, and the Retail Energy Code Company (RECCo) manages the rules set out in the Retail Energy Code. We consulted in July on which documents, or combination of documents would provide a robust evidence base to demonstrate a genuine CoT/CoO and have asked RECCo to lead on this work to embed requirements into industry processes.

- 7.12 Consumer groups, trade bodies, and some individual respondents all told us that there should be consistency amongst suppliers as to which documents, or combination of documents, are required to demonstrate CoT. Feedback also indicated a lack of standardisation as each supplier seemed to have varied requirements. Others noted that they had seen examples of cases where suppliers have made it difficult for a new customer to prove that they have taken over the responsibility for a property, which meant that the customer had been unable to switch to a preferred supplier. In some cases, they had been pursued for another customer's debt.
- 7.13 Some suppliers were keen to emphasise that whilst some processes might seem onerous, suppliers need to be able to request evidence to avoid fraud, particularly around using a CoT process to exit contracts early and avoid debt. It was noted that allowing suppliers to take reasonable steps to prevent fraud, and the subsequent accumulation of bad debt, was in the interests of all customers.
- 7.14 Several suppliers also noted that whilst they were supportive of the idea of a standard suite of documents, they would like there to be room for supplier discretion to require further evidence in specific cases. For example, where there is reasonable doubt over whether a CoT is genuine and/or there is a complex set of circumstances. We also received several responses where suppliers requested that any new process should not prevent suppliers from accepting and processing a CoT without requesting documentation where it is clear to the supplier that the change in customer is genuine.
- 7.15 RECCo have started work on this area. They presented some initial proposals at a webinar in October. We have asked them to develop this work with a working group consisting of representatives from across the sector, including suppliers, TPIs, and consumer groups, so that stakeholders impacted by the changes can help refine these initial proposals. This working group will meet through winter and early spring with a view to presenting a change proposal to the Change Panel in late spring.

Voluntary actions – Billing Transparency

- 7.16 We asked stakeholders whether they agreed with our proposal to agree voluntary improved pricing transparency, and if so, where they would like to see more transparency. Responses were largely positive, with the majority agreeing that they would like to see more transparency.
- 7.17 Stakeholders noted that the market can be complex, terms that make up bills can be hard to understand, many customers do not have the industry knowledge needed to understand their bills, and suppliers vary greatly in the information which they include on their bills. It was highlighted that the customers in the Non-Domestic market are diverse and that contracts in this market vary significantly because of this. Many respondents expressed that it was not appropriate to mandate specific billing transparency rules, but instead to develop principles-based policy. Some argued that proposals should be targeted at, for example, Micro Business Consumers, as they considered that larger businesses would not necessarily benefit from these proposals, although this view was not shared by all respondents.
- 7.18 Several different kinds of costs and elements of bills were raised as requiring more transparency. TPI costs were highlighted by multiple stakeholders as being an area in which they would like to see increased transparency. Other elements which were mentioned included: policy costs, hidden charges, pass through charges, distribution and transmission charges, reasons for fluctuations in unit rates and standing charges, Government schemes, wholesale purchase costs and supplier profits, for example. It was highlighted that both suppliers and Ofgem could have a role here. Specifically with suppliers providing more information on bills and for example on their websites, and for Ofgem, to create an industry guide of terms, a best practice guide, and as a trusted voice could communicate policy cost changes (for example, the targeted charging review (TCR)⁶⁴).

⁶⁴ The Targeted Charging Review (TCR) has examined the 'residual charges' which recover the fixed costs of providing existing pylons and cables, and the differences in charges faced by smaller distributed generators and larger generators (known as Embedded Benefits). For more information on the TCR, please see Targeted Charging Review: Decision and Impact Assessment | Ofgem <https://www.ofgem.gov.uk/publications/targeted-charging-review-decision-and-impact-assessment>

- 7.19 There were other points raised which stakeholders considered could improve billing transparency. For example, the extension of SLC 31H and 31I⁶⁵, provision of breakdown of tariff options, and for Ofgem to have a breakdown of a typical Non-Domestic bill on the website. Another response provided a detailed list of what they felt Ofgem could require suppliers to publish on their website, which focused on breaking down various bills for businesses of different sizes and energy consumptions.
- 7.20 We have taken into consideration all of the points raised by stakeholders. We are not consulting on changes to specific licence conditions at this time (other than the consulted upon Standards of Conduct, which includes billing). We are working with stakeholders, including suppliers, trade organisations and customers, to develop improved billing transparency. Over the coming months, our intent is to issue a glossary of terms on the Ofgem website, as well as issuing a best practice guide on billing transparency. We will continue to hold workshops with stakeholders to develop these proposals to achieve our goal of improved understanding and clarity of bills on a voluntary basis in the Non-Domestic market.

Domestic consumers supplied via Non-Domestic contracts

- 7.21 As part of the Non-Domestic market review, we have been looking into whether there is a need for more focused regulatory support for specific groups of customers. A group of consumers that we identified as needing additional support are domestic consumers who are supplied their energy through Non-Domestic contracts, often without any control over the entity that agrees the contract. This is not a homogenous group. Within this group there are several different categories of customers with slightly different needs and, in some cases, they fall under different regulatory structures. These include residents in care homes, assisted living arrangements, tenants in multiple occupancy buildings, residents in flats/apartments attached to a pub or other business, residents in caravan parks, residents in houseboats, and residential accommodation for higher-education students etc. Because of this, a one size fits all approach is not always appropriate. Therefore, we are focused on targeted measures, as we set out in this section.

⁶⁵ SLC 31H and 31I of the gas and electricity supply licences apply to domestic customers. SLC 31H concerns Relevant Billing information, Bills and statements of account; SLC 31I concerns Contract changes information (notifications of price increases, disadvantageous unilateral variations and end of fixed term contracts).

- 7.22 We note that the government published their own Call for Evidence on the topic of domestic consumers with Non-Domestic energy supply contracts between July and September 2023.⁶⁶ This Call for Evidence aimed to increase government's understanding of domestic consumers who receive their energy via a Non-Domestic contract. The information provided will help determine if these consumers need any longer-term protections from government. A summary of the responses will be published on the government website in due course.
- 7.23 In our July consultation, we asked for the views of network companies and independent network companies on potential issues of targeting support to vulnerable end users supplied through Non-Domestic contracts. Everyone who responded on this subject was broadly in agreement that vulnerable domestic consumers served via Non-Domestic electricity or gas contracts need greater protections and support Ofgem working on this issue.
- 7.24 The consensus was that network companies are the right organisation to deal with this issue, as opposed to Non-Domestic suppliers. Here the consensus splits into two main schools of thought. On the one hand, the network distributors explained all the work they are already doing on the topic and call on Ofgem to recognise and work with this. On the other, the consumer rights groups expressed disappointment that Ofgem has not gone far enough on the matter by not pursuing the option of allowing domestic consumers in Non-Domestic supply situations access to the existing domestic Priority Service Register(s) (PSR).⁶⁷
- 7.25 We also asked all respondents for opinions on making changes to the Maximum Resale Price direction to improve how effectively it protects consumers, and if there were any potential negatives to changes. A large majority of respondents were in favour of changes. They felt that the current direction did not meet its aim of protecting consumers and allowing redress. There were several well thought out suggestions on what improvements could be made. There was also a call for more quantitative data to be gathered before we made any changes.

⁶⁶ <https://www.gov.uk/government/calls-for-evidence/domestic-consumers-with-non-domestic-energy-supply-contracts-call-for-evidence>

⁶⁷ The Priority Services Register is a free support service that makes sure extra help is available to people in vulnerable situations. Domestic Energy suppliers and Network operators have Priority Service Registers.

Widening access to Priority Services Register for domestic consumers in Non-Domestic supply situations.

- 7.26 Vulnerable domestic consumers who are supplied via a Non-Domestic contract are currently at a disadvantage by rarely being able to directly access a PSR. This is because domestic suppliers are obliged to keep a PSR of their vulnerable customers under Condition 26 of the supplier SLCs, however, this obligation does not extend to Non-Domestic suppliers. This is because the supplier's contract is with the Non-Domestic customer, and they therefore do not always have full information about who else the energy supplies. Domestic consumers who are supplied through a Non-Domestic contract will instead be in a contract with a landlord or management agent, for example, responsible for producing bills. We committed in our July policy consultation to engage with the network companies to explore practical ways in which vulnerable consumers can be better supported in the event of a power outage or emergency situation. We have been discussing this with the Electricity Networks Association and network companies.
- 7.27 Most network companies have made commitments in their plans for their new price control period starting from April 2024 to better serve Non-Domestic Customers and any vulnerable residents that might be located on such premises. This includes working to better identify Non-Domestic premises where vulnerable domestic consumers are located and working with Non-Domestic entities to improve their supply resilience. We are discussing ideas with the network companies to create a clearer route for vulnerable consumers to identify themselves to network companies and in a more consistent way. We believe this will give vulnerable customers more clarity on how to get support and at the same time enhance the deliverability of the network companies' plans. We look forward to positive engagement with the network companies on getting this improvement for vulnerable customers and aim to set out the agreement on this work in our Decision document.

Targeted information for certain domestic consumer groups in Non-Domestic supply situations.

- 7.28 As noted above, there are a number of different categories of domestic consumers that sit behind a Non-Domestic contract, often with slightly different needs and, in some cases, they fall under different regulatory structures. We are therefore creating targeted information sheets for different categories. Earlier this year we published a dedicated help page on our website for residents of park home sites. The typical park home site is set up in such a way that the residents

fall into the category of domestic consumers supplied via Non-Domestic contracts. The webpage explained how they could get help with matters relating to energy and we have received positive feedback from key park home stakeholders on it. This page is currently being updated for this winter. This winter we will also publish information pages for the Gypsy/Traveller community and for residents in care settings and organisations that provide that care. We will continue to work with other groups to see where more specialised advice is needed.

Improving the Maximum Resale Price direction for consumers supplied via resold energy.

- 7.29 The Maximum Resale Price (MRP) direction applies when any person buys gas or electricity from a licenced supplier and resells it to someone else for their use. The core issue identified from previous discussions with stakeholders and from the responses to the policy consultation on the topic of the MRP direction is related to its enforcement.
- 7.30 The MRP direction is issued, under section 37 of the Gas Act 1986 and section 44 of the Electricity Act 1989, by Ofgem and fixes (by amount or methodology) the maximum price at which gas and electricity may be resold. The current maximum price at which each unit of gas or electricity may be resold is the same as that paid to the supplier by the person reselling it. In other words, the reseller cannot make a profit from reselling energy. This direction applies commonly in situations such as houses in multiple occupation (HMO), bedsits, marinas, park homes and caravan sites.
- 7.31 There are penalties for non-compliance with the MRP, however the main cause of the difficulty in relation to these penalties is that disputes relating to the MRP are currently heard in the First-tier Tribunal (Property Chamber); Ofgem is not the enforcement body. The need to go to tribunal creates a financial barrier to entry for a resident seeking redress due to fees and expenses. In addition, the tribunal uses the MRP direction as the basis for any penalties against the reseller if they are found to have breached the MRP. However, because the financial penalties for breaching the MRP in the direction are so low it makes seeking redress an unattractive option for many consumers. This in turn creates a culture where resellers can feel empowered to not follow the direction, and domestic consumers supplied through Non-Domestic contracts are denied an important protection.
- 7.32 We have been working with government and the devolved executives to ensure there is more information available to end consumers of their rights under the MRP direction, raising awareness of the obligations of the MRP direction with

resellers, and exploring options for easier routes to access support in the case of non-compliance.

- 7.33 In England, for consumers that are protected by the MRP direction and currently on assured shorthold tenancy agreements in England, the Renters (Reform) bill currently going through parliament contains within it a proposal to create a private rented sector ombudsman service.⁶⁸ The remit of this service is likely broad enough to cover the MRP direction in principle, and the proposed ombudsman may have the power to set its own penalties for breaching the direction beyond what the current direction stipulates. The final details of the proposed service are still to be determined but Ofgem continues to work with government to allow for reselling to be included in the list of areas that this ombudsman service will cover.
- 7.34 Meanwhile, we are working with the Welsh Government to produce a fact sheet that will raise awareness of the MRP direction amongst landlords and tenants. By raising awareness, we hope this will increase compliance in situations where any breach is down to lack of knowledge rather than malice on the part of the reseller.
- 7.35 We have also had productive conversations with Scottish Government and are working towards raising awareness of the MRP within Scotland for both consumers and resellers. We are also open to working with the Scottish Government on exploring options for enforcement in the future.
- 7.36 We will also continue to raise awareness of the MRP in other housing situations in our targeted energy website pages. Starting with park homes, gypsy and travellers, and care home residents and providers.
- 7.37 For consumers and resellers in all other residential situations, we will continue to monitor the situation and take action where appropriate. We remain committed to reviewing the MRP direction and working with the government to make it easier for consumers to act against resellers where they believe the MRP is not being followed. We will provide an update on this work in our decision document.

Increased monitoring

- 7.38 We explained in our July consultation that we have powers to request monitoring information from energy suppliers to help us carry out our regulatory functions and monitor the market. We signalled that we would like to continue to receive

⁶⁸ <https://www.gov.uk/guidance/private-rented-sector-ombudsman-renters-reform-bill>

and monitor this information to inform our regulatory activity on an ongoing basis and ensure the information collected covers a larger portion of the Non-Domestic market.

- 7.39 Since then, we have separately issued a consultation on revising the licence condition requiring submission of a Consolidated Segmental Statement (CSS), that currently applies to large, vertically integrated suppliers. A CSS provides a top-level view of a company's energy supply profitability. One of the proposed changes is to amend the licence to capture around 90% of Non-Domestic suppliers, to meet our aim of collecting CSS data that is representative of the market. More details about this, and how to respond, are on our website.⁶⁹
- 7.40 Since July, we have also issued another RFI to suppliers to gather information specific to the topics we have considered in this consultation. We will begin discussing with suppliers over the winter which data we will continue to gather as part of more routine monitoring. By broadening our routine monitoring, we will be able to better identify potential issues earlier on and have a longer time series of data to support any changes. Routine returns will also allow suppliers to better plan for responding to our information requests and in a more consistent way.

⁶⁹ The CSS consultation can be accessed at: <https://www.ofgem.gov.uk/publications/reviewing-consolidated-segmental-statements-our-final-proposals>

8. Next Steps

Section summary

This section provides a recap of the work we will continue with over the winter, and also summarises the implementation timings we have proposed for each of the proposed licence changes in this consultation. It also highlights the work we will return to related to the 14-day cooling off period.

Questions

Q22. Do you have any other comments on our proposals not asked specifically elsewhere in this document?

- 8.1 We welcome responses to our proposals by 31 January 2024. We will consider all responses, and also work with Government as they consider responses to their consultation to expand the Energy Ombudsman. Because some of our proposals are aligned to the government’s proposal, we expect to align our Decision to the government’s decision. We expect this to be published in Spring 2024.
- 8.2 Over this winter, we will continue to progress a number of areas. These include the establishment of our routine monitoring, finalising the voluntary billing transparency work, overseeing the progress RECCo is making on securing consistent document checks for evidencing change of tenancy requests, and progressing with the steps outlined in the previous section to assist those domestic customers who receive their energy supply via a Non-Domestic contract.

Cooling off period

- 8.3 Early next year we will revisit the questions raised about a ‘cooling off period’. For domestic energy customers there is a 14-day cooling off period. This is a 14-day period after you switch where customers can change their mind about entering into the contract and cancel with no consequences. In the Micro Business Strategic Review (MBSR), this was raised as a potential option. However, this was not progressed due to work happening at the time on the faster switching project. We noted in the MBSR document that we may review the idea of a cooling off period in the future, once faster switching went live, which it now has. While we gathered evidence in our non-domestic market review, a cooling off period was not identified as a priority area of harm by most stakeholders. However, two consumer groups have highlighted that this is still an issue we should investigate.

We will therefore from early in the New Year engage on this topic with stakeholders, to explore the core issues and consider next steps.

Summary of our proposals and proposed implementation timings

8.4 In each of our sections setting out proposals in this document, we have referred to our proposed licence changes in Appendix 1 and set out our proposed implementation timelines. We are conscious of stakeholder calls to implement changes as soon as possible. The timelines we have proposed take into account the mandatory 56 days standstill period, and where appropriate, allow time for system or other changes that are needed. The implementation date would be the time from which we would require all suppliers to comply with any new rules. Some suppliers may be able to implement changes sooner, following our Decision. For ease of reference, the following table summarises the implementation dates that we have set out throughout the document. We welcome responses to the proposed implementation timelines, as asked in each relevant section.

Table 8.1 - Summary of implementation times proposed for each proposed licence change

Proposal ↓	Time to implement ----->								
Standards of Conduct for all Non-domestic's	Decision (D)		D + 57 days						
Complaints Handling Standards for Small Business Consumers				D + 3 months					
Signposting support to Small Business Consumers				D+ 3 months					
TPI redress membership for Small Business Consumers									D + 8 months
Third Party Cost transparency for all Non-Domestic's							D + 6 months		

Appendices

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Appendix 1 – Proposed Licence Modifications

Draft Supply Licence conditions

Deletions are shown in strikethrough and new text is double underlined. We have only shown the licence conditions whether modifications or deletions are proposed.

Standard Gas Supply Licence

Condition 1.2 Definitions in alphabetical order

Principal Terms means, in respect of any form of Contract or Deemed Contract, the terms that relate to:

- (a) Charges for the Supply of Gas;
 - (aa) where the licensee is relying on sub-paragraph 22C.11(a) of standard condition 22C or sub-paragraph 23.8(a) of standard condition 23, the method by which Charges for the Supply of Electricity fluctuate automatically;
 - (ab) where the licensee is relying on sub-paragraph 22C.11(b) of standard condition 22C or sub-paragraph 23.8(b) of standard condition 23, the precise variations to the Charges for the Supply of Gas;
 - (ac) Where the licensee is relying on paragraph 22C.11A of standard condition 22C and paragraph 23.8A of standard condition 23:
 - i. moving a Domestic Customer from one payment method to another and the precise circumstances when that will occur; and
 - ii. the precise variations to the Charges for the Supply of Gas and other terms and conditions which would occur as a result of the Domestic Customer being moved from one payment method to another;
 - (ad) Where the licensee is relying on paragraph 22C.11A of standard condition 22C but not paragraph 23.8A of standard condition 23, moving a Domestic Customer from one payment method to another and the precise circumstances when that will occur;
- (b) any requirement to pay Charges for the Supply of Gas through a Prepayment Meter;
 - (ba) in relation to a Domestic Supply Contract, any Credit Limiting which applies, including the Credit Limit;
- (c) any requirement for a Security Deposit;
- (d) the duration of the Contract or Deemed Contract (including, but not limited to, the duration of any fixed term periods and any arrangements for renewing or extending the duration of the Contract or any fixed term periods);

(e) the rights to end the Contract (including any obligation to pay a Termination Fee) or the circumstances in which a Deemed Contract will end, and any other term that may reasonably be considered to significantly affect the evaluation by the Customer of the Contract under which gas may be supplied to his premises including for the avoidance of doubt, in relation to ~~Micro-Business Consumers~~ Non-Domestic Customers any Third Party Costs, required to be paid or due to be paid in respect of the full duration of a Non-Domestic Consumer ~~Microbusiness Consumer~~ Contract and to be presented as defined in condition 20.7B monies (whether actual or where that is not possible, estimated amounts).

Small Business Consumer [This definition is subject to change following the government consultation]

A non-domestic customer is defined as a small business if they: employ fewer than 50 employees (or their full time equivalent) and has an annual turnover no greater than £6.5 million or balance sheet total no greater than £5.0 million; or uses no more than 500,000 kWh of electricity per year; or uses no more than 500,000 kWh of gas per year.

Condition 0A. Treating ~~Microbusiness Consumers~~ Non-Domestic Customers Fairly

Customer Objective

0A.1 The objective of this condition is for the licensee to ensure that each ~~Micro-Business Consumer~~ Non-Domestic Customer is treated Fairly ("the Customer Objective").

Achieving the Standards of Conduct

0A.2 The licensee must ensure it achieves the Standards of Conduct in a manner consistent with the Customer Objective.

0A.3 The Standards of Conduct are that the licensee:

- a. behaves and carries out any actions in a Fair, honest, transparent, appropriate and professional manner;
- b. provides information (whether in Writing or orally) to each ~~Micro-Business Consumer~~ Non-Domestic Customer which:
 - i. is complete, accurate and not misleading (in terms of the information provided or omitted);
 - ii. is communicated (and, if provided in Writing, drafted) in plain and intelligible language with more important information being given appropriate prominence;
 - iii. relates to products or services which are appropriate to the ~~Micro-Business Consumer~~ Non-Domestic Customer to whom it is directed; and
 - iv. in terms of its content and in terms of how it is presented, does not create a material imbalance in the rights, obligations or interests of the licensee and the ~~Micro-Business Consumer~~ Non-Domestic Customer in favour of the licensee;

c. in relation to customer service arrangements:

- i. makes it easy for a ~~Micro-Business Consumer~~ Non-Domestic Customer to contact the licensee;
- ii. acts promptly to put things right when the licensee makes a mistake; and
- iii. otherwise ensures that customer service arrangements and processes are fit for purpose and transparent.

Scope of Condition

0A.4 Standard condition 0A applies to all Designated Activities in respect of a ~~Micro-Business Consumer~~ Non-Domestic Customer.

0A.5 Apart from any matters relating to Deemed Contracts, standard condition 0A does not apply in respect of the amount or amounts of any Charges for the Supply of Electricity or any other type of charge or fee, applied or waived.

0A.6 Standard Condition 0A applies to the exercise of a licensee’s discretion to apply or waive any fee or charge.

0A.7 In the event of a conflict between this condition and paragraph 14.2 of standard condition 14, this condition will prevail.

Guidance

0A.8 The licensee must have regard to any guidance on standard condition 0A (including in respect of definitions which appear in standard condition 1) which, following consultation (which may be conducted before this condition takes effect), the Authority has issued, may issue and may from time to time revise (following further consultation).

Definitions

0A.9 For the purposes of this condition:

“Billing”	All matters relating to the provision of a Bill or statement of account to a Customer, including the content and calculations relating to such a Bill or statement of account and the collection and use of information relating to the consumption of electricity.
“Contractual Information”	Includes the drafting and content of a Non-domestic Supply Contract or Deemed Contract and the provision of information relating to the Non-domestic Supply Contract or Deemed Contract that applies to a Micro-Business Consumer <u>Non-Domestic Customer</u> which is being supplied by the licensee.
“Customer Objective”	Is to be interpreted in accordance with paragraph 0A.1.
“Customer Transfers”	Includes, but is not limited to, any matters that relate to a Customer’s ability to change supplier and/or affect the timeframe for changing supplier (including related terms and conditions of a Non-domestic Supply Contract or Deemed Contract that applies to a Micro-Business Consumer <u>Non-Domestic Customer</u>).
“Designated Activities”	Mean each of the following:

	<p>a. the accuracy of a Bill or statement of Account;</p> <p>b. the timeframe for a Micro Business Consumer <u>Non-Domestic Customer</u> receiving a Bill or statement of account and the timeframe for the payment of a Bill;</p> <p>c. any written or oral communications regarding Billing or Contractual Information;</p> <p>d. Customer Transfers;</p> <p>e. any matters relating to Deemed Contracts; and</p> <p>f. any matters which fall within the scope of standard conditions 7A, 14, 14A and 21B (in so far as they relate to a Micro Business Consumer) <u>any matters which fall within the scope of standards conditions 14, 14A and 21B (in so far as they relate to a Non-Domestic Customer).</u></p>
"Fair" and cognate expressions	The licensee would not be regarded as treating a Micro Business Consumer <u>Non-Domestic Customer</u> Fairly if their actions or omissions give rise to a likelihood of detriment to the Micro Business Consumer <u>Non-Domestic Customer</u> , unless the detriment would be reasonable in all the relevant circumstances.
"Micro Business Consumer"	has the meaning given in standard condition 7A.
"Standards of Conduct"	Means one or more of sub paragraphs 0A.3 (a) to (c)

Condition 7A. Supply to Micro Business Consumers

~~Information on Third Party Costs-~~

~~7A.10C.1 In addition to the requirement in condition 7A.9, where the licensee has entered into a Micro Business Consumer Contract, the licensee must provide to the Micro Business Consumer on request, information relating to any form of Third Party Costs paid or made, or due to be paid or made by the licensee, to a Third Party in respect of the full duration of that Micro Business Consumer Contract;~~

~~7A.10C.2 The licensee must ensure that the information that the licensee is required to disclose by virtue of condition-~~

~~7A.10C.1:-~~

- ~~(a) is disclosed as monies, whether actual amounts or (if that is not possible) estimated amounts;~~
- ~~(b) enables a Micro Business Consumer to understand the amount of those sums that it is due to pay which are, or are attributable to Third Party Costs due to the Third Party, as well as any Charges (so far as they are different) or other sums; and~~
- ~~(c) is drafted in plain and intelligible language.~~

7A.10C- not used

Condition 20. Safety of gas supplies, Meter Point Reference Number, advice information and dispute settlement – for Non-Domestic Customers

Advice information

20.5A The licensee must keep each of its Small Business Consumers informed:

- a. that Citizens Advice consumer service can assist in providing information and advice to Small Business Consumers; and
- b. how to contact Citizens Advice and Citizens Advice Scotland

by providing that information at least annually.

Working with Third Party Intermediaries

Dispute settlement

20.6 The licensee must provide to each of its Non-Domestic Customers information concerning their rights as regards the means of dispute settlement available to them in the event of a dispute with the licensee or, in the case of a Small Business Consumer ~~Microbusiness Consumer~~, any Third Party by providing that information on any relevant Promotional Materials sent to the Non-Domestic Customer and on or with each Bill or statement of account sent to each Non-Domestic Customer in relation to Charges or annually if the licensee has not sent such a Bill or statement of account to them. Such information must include, but is not limited to, how the procedures under any Qualifying Dispute Settlement Scheme can be initiated.

20.6A The licensee must ensure that any Third Party is a member of a Qualifying Dispute Settlement Scheme.

20.6B The licensee must provide any information it holds or controls which, in the view of the provider of the relevant Qualifying Dispute Settlement Scheme, is relevant to a dispute between a ~~Micro-Business Consumer~~ Small Business Consumer and a Third Party, to the provider of the relevant Qualifying Dispute Settlement Scheme, on request.

20.6C The provisions in this Condition 20.6 insofar as they relate to dispute settlement between a Microbusiness Consumer and a Third Party shall take effect on and from 1 December 2022 a date specified by the Authority. The provisions in this Condition 20.6 insofar as they relate to dispute settlement between a Small Business Consumer and a Third Party shall take effect [8 months after the decision is published], a date specified by the Authority.

20.6D For the purposes of this Condition: **'Qualifying Dispute Settlement Scheme'** means any scheme of dispute settlement, resolution and/or redress operated by the Relevant Energy Ombudsman or such other organisation as demonstrably provides independent, fair, effective and transparent out-of court dispute settlement relating to Relevant Third Party Activities and constitutes a Qualifying Dispute Settlement Scheme in accordance with any guidance issued by the Authority,

'Relevant Third Party Activities' means any activity undertaken by a Third Party in respect of a ~~Micro-Business~~ Small Business Supply Contract including (but without prejudice to the generality of the foregoing):

(a) any written or oral communications relating to the supply of gas to a Non Domestic Consumer ~~Micro-Business-Consumer~~ including:

- (i) any pre-sales communications;
- (ii) any communications regarding Billing or Contractual Information; and
- (iii) for a Micro Business Consumer any matters falling within the scope of standard conditions 7A, 14, 14A and 21B (insofar as they relate to a Micro Business Consumer); and

(b) any processing of information relating to the supply of gas to a Small Business Consumer ~~Micro Business~~, together with any other Relevant Activities as the Authority may direct from time to time, following consultation.

Information on Third Party Costs

~~7A.10C.1 20.7~~ In addition to the requirement in condition 7A.9, where the licensee has entered into a ~~Micro Business Consumer Contract~~, the licensee must provide to the ~~Micro Business~~ Non-Domestic Consumer on request, information relating to any form of Third Party Costs paid or made, or due to be paid or made by the licensee, to a Third Party in respect of the full duration of that ~~Micro Business~~ Non-Domestic Consumer Contract;

~~7A.10C.2 20.7A~~ The licensee must ensure that the information that the licensee is required to disclose by virtue of condition

~~7A.10C.1 20.7B~~:

- (a) for Micro Business Consumers is disclosed as monies, whether actual amounts or (if that is not possible) estimated amounts and as a cost per unit of energy or a cost per day (month) where it forms part of a daily (monthly) standing charge;
- (b) for Non-Domestic Customers who do not qualify as a Micro Business Consumer, is disclosed as a cost per unit of energy or a cost per day (month) where it forms part of a daily (monthly) standing charge;
- (~~b~~ c) enables a ~~Micro Business Consumer~~ Non-Domestic Customer to understand the amount of those sums that it is due to pay which are, or are attributable to Third Party Costs due to the Third Party, as well as any Charges (so far as they are different) or other sums; and
- (~~e~~ d) is drafted in plain and intelligible language.

Standard Electricity Supply Licence

Condition 1.3 Definitions in alphabetical order

Principal Terms means, in respect of any form of Contract or Deemed Contract, the terms that relate to:

- (a) Charges;
 - (aa) where the licensee is relying on sub-paragraph 22C.11(a) of standard condition 22C or sub-paragraph 23.8(a) of standard condition 23, the method by which Charges for the Supply of Electricity fluctuate automatically;
 - (ab) where the licensee is relying on sub-paragraph 22C.11(b) of standard condition 22C or sub-paragraph 23.8(b) of standard condition 23, the precise variations to the Charges for the Supply of Electricity;
 - (ac) Where the licensee is relying on paragraph 22C.11B of standard condition 22C and paragraph 23.8A of standard condition 23:
 - i. moving a Domestic Customer from one payment method to another and the precise circumstances when that will occur; and
 - ii. the precise variations to the Charges for the Supply of Electricity and other terms and conditions which would occur as a result of the Domestic Customer being moved from one payment method to another;
 - (ad) Where the licensee is relying on paragraph 22C.11B of standard condition 22C but not paragraph 23.8A of standard condition 23, moving a Domestic Customer from one payment method to another and the precise circumstances when that will occur;
- (b) any requirement to pay Charges through a Prepayment Meter;
 - (ba) in relation to a Domestic Supply Contract, any Credit Management which applies, including the Credit Limit;
 - (bb) in relation to a Domestic Supply Contract, any Load Limiting which applies, including the Load Limit;
- (c) any requirement for a Security Deposit;
- (d) the duration of the Contract or Deemed Contract (including, but not limited to, the duration of any fixed term periods and any arrangements for renewing or extending the duration of the Contract or any fixed term periods);
- (e) the rights to end the Contract (including any obligation to pay a Termination Fee) or the circumstances in which a Deemed Contract will end, and any other term that may reasonably be considered to significantly affect the evaluation by the Customer of the Contract under which electricity may be supplied to his premises including for the avoidance of doubt, in relation to ~~Micro-Business Consumers~~ Non-Domestic Customers any Third Party Costs, required to be paid or due to be paid in respect of ~~the full duration~~ of a Non-

Domestic Microbusiness Consumer Contract and to be presented as defined in condition 20.6B as monies (whether actual or where that is not possible, estimated amounts).

Small Business Consumer [This definition is subject to change following the governments consultation]

A non-domestic customer is defined as a small business if they: employ fewer than 50 employees (or their full time equivalent) and has an annual turnover no greater than £6.5 million or balance sheet total no greater than £5.0 million; or uses no more than 500,000 kWh of electricity per year; or uses no more than 500,000 kWh of gas per year.

Condition 0A. Treating ~~Microbusiness Consumers~~ Non-Domestic Customers Fairly

Customer Objective

0A.1 The objective of this condition is for the licensee to ensure that each ~~Micro-Business Consumer~~ Non-Domestic Customer is treated Fairly ("the Customer Objective").

Achieving the Standards of Conduct

0A.2 The licensee must ensure it achieves the Standards of Conduct in a manner consistent with the Customer Objective.

0A.3 The Standards of Conduct are that the licensee:

- a. behaves and carries out any actions in a Fair, honest, transparent, appropriate and professional manner;
- b. provides information (whether in Writing or orally) to each ~~Micro-Business Consumer~~ Non-Domestic Customer which:
 - i. is complete, accurate and not misleading (in terms of the information provided or omitted);
 - ii. is communicated (and, if provided in Writing, drafted) in plain and intelligible language with more important information being given appropriate prominence;
 - iii. relates to products or services which are appropriate to the ~~Micro-Business Consumer~~ Non-Domestic Customer to whom it is directed; and
 - iv. in terms of its content and in terms of how it is presented, does not create a material imbalance in the rights, obligations or interests of the licensee and the ~~Micro-Business Consumer~~ Non-Domestic Customer in favour of the licensee;
- c. in relation to customer service arrangements:
 - i. makes it easy for a ~~Micro-Business Consumer~~ Non-Domestic Customer to contact the licensee;

- ii.acts promptly to put things right when the licensee makes a mistake;
and
- iii.otherwise ensures that customer service arrangements and processes are fit for purpose and transparent.

Scope of Condition

0A.4 Standard condition 0A applies to all Designated Activities in respect of a ~~Micro Business Consumer~~ Non-Domestic Customer.

0A.5 Apart from any matters relating to Deemed Contracts, standard condition 0A does not apply in respect of the amount or amounts of any Charges for the Supply of Electricity or any other type of charge or fee, applied or waived.

0A.6 Standard Condition 0A applies to the exercise of a licensee’s discretion to apply or waive any fee or charge.

0A.7 In the event of a conflict between this condition and paragraph 14.2 of standard condition 14, this condition will prevail.

Guidance

0A.8 The licensee must have regard to any guidance on standard condition 0A (including in respect of definitions which appear in standard condition 1) which, following consultation (which may be conducted before this condition takes effect), the Authority has issued, may issue and may from time to time revise (following further consultation).

Definitions

0A.9 For the purposes of this condition:

“Billing”	all matters relating to the provision of a Bill or statement of account to a Customer, including the content and calculations relating to such a Bill or statement of account and the collection and use of information relating to the consumption of electricity.
“Contractual Information”	includes the drafting and content of a Non-domestic Supply Contract or Deemed Contract and the provision of information relating to the Non-domestic Supply Contract or Deemed Contract that applies to a Micro Business Consumer <u>Non-Domestic Customer</u> which is being supplied by the licensee.
“Customer Objective”	Is to be interpreted in accordance with paragraph 0A.1.
“Customer Transfers”	includes, but is not limited to, any matters that relate to a Customer’s ability to change supplier and/or affect the timeframe for changing supplier (including related terms and conditions of a Non-domestic Supply Contract or Deemed Contract that applies to a Micro Business Consumer <u>Non-Domestic Customer</u>).
“Designated Activities”	mean each of the following: g. the accuracy of a Bill or statement of Account;

	<p>h. the timeframe for a Micro Business Consumer <u>Non-Domestic Customer</u> receiving a Bill or statement of account and the timeframe for the payment of a Bill;</p> <p>i. any written or oral communications regarding Billing or Contractual Information;</p> <p>j. Customer Transfers;</p> <p>k. any matters relating to Deemed Contracts; and</p> <p>l. any matters which fall within the scope of standard conditions 7A, 14, 14A and 21B (in so far as they relate to a Micro Business Consumer) <u>any matters which fall within the scope of standards conditions 14, 14A and 21B (in so far as they relate to a Non-Domestic Customer).</u></p>
"Fair" and cognate expressions	The licensee would not be regarded as treating a Micro Business Consumer <u>Non-Domestic Customer</u> Fairly if their actions or omissions give rise to a likelihood of detriment to the Micro Business Consumer <u>Non-Domestic Customer</u> , unless the detriment would be reasonable in all the relevant circumstances.
"Micro Business Consumer"	has the meaning given in standard condition 7A.
"Standards of Conduct"	Means one or more of sub paragraphs 0A.3 (a) to (c)

Condition 7A. Supply to Micro Business Consumers

~~Information on Third Party Costs~~

~~7A.10C.1 In addition to the requirement in condition 7A.9, where the licensee has entered into a Micro Business Consumer Contract, the licensee must provide to the Micro Business Consumer on request, information relating to any form of Third Party Costs paid or made, or due to be paid or made by the licensee, to a Third Party in respect of the full duration of that Micro Business Consumer Contract;~~

~~7A.10C.2 The licensee must ensure that the information that the licensee is required to disclose by virtue of condition~~

~~7A.10C.1:~~

- ~~(a) is disclosed as monies, whether actual amounts or (if that is not possible) estimated amounts;~~
- ~~(b) enables a Micro Business Consumer to understand the amount of those sums that it is due to pay which are, or are attributable to Third Party Costs due to the Third Party, as well as any Charges (so far as they are different) or other sums;~~
- ~~and~~
- ~~(c) is drafted in plain and intelligible language.~~

7A.10C- not used

Condition 20. Enquiry service, Supply Number, advice information and dispute settlement – for Non-Domestic Customers

Advice Information

20.4A The licensee must keep each of its Small Business Consumers informed:

- a. that Citizens Advice consumer service can assist in providing information and advice to Small Business Consumers; and
- b. how to contact Citizens Advice and Citizens Advice Scotland

by providing that information at least annually.

Working with Third Party Intermediaries

Dispute settlement

20.5 The licensee must provide to each of its Non-Domestic Customers information concerning their rights as regards the means of dispute settlement available to them in the event of a dispute with the licensee or, in the case of a Small Business Consumer ~~Microbusiness Consumer~~, any Third Party by providing that information on any relevant Promotional Materials sent to the Non-Domestic Customer and on or with each Bill or statement of account sent to each Non-Domestic Customer in relation to Charges or annually if the licensee has not sent such a Bill or statement of account to them. Such information must include, but is not limited to, how the procedures under any Qualifying Dispute Settlement Scheme can be initiated.

20.5A The licensee must ensure that any Third Party is a member of a Qualifying Dispute Settlement Scheme.

20.5B The licensee must provide any information it holds or controls which, in the view of the provider of the relevant Qualifying Dispute Settlement Scheme, is relevant to a dispute between a ~~Micro-Business Consumer~~ Small Business Consumer and a Third Party, to the provider of the relevant Qualifying Dispute Settlement Scheme, on request.

20.5C The provisions in this Condition 20.6 insofar as they relate to dispute settlement between a Microbusiness Consumer and a Third Party shall take effect on and from 1 December 2022 a date specified by the Authority. The provisions in this Condition 20.6 insofar as they relate to dispute settlement between a Small Business Consumer and a Third Party shall take effect [8 months after the decision is published], a date specified by the Authority.

20.5D For the purposes of this Condition: **'Qualifying Dispute Settlement Scheme'** means any scheme of dispute settlement, resolution and/or redress operated by the Relevant Energy Ombudsman or such other organisation as demonstrably provides independent, fair, effective and transparent out-of court dispute settlement relating to Relevant Third Party Activities and constitutes a Qualifying Dispute Settlement Scheme in accordance with any guidance issued by the Authority,

'Relevant Third Party Activities' means any activity undertaken by a Third Party in respect of a ~~Micro-Business~~ Non-Domestic Supply Contract including (but without prejudice to the generality of the foregoing):

- (a) any written or oral communications relating to the supply of gas to a Non-Domestic Customer ~~Micro-Business Consumer~~ including:
 - (i) any pre-sales communications;
 - (ii) any communications regarding Billing or Contractual Information;
- and

- (iii) for a Micro Business Consumer any matters falling within the scope of standard conditions 7A, 14, 14A and 21B (insofar as they relate to a Micro Business Consumer); and
- (b) any processing of information relating to the supply of gas to a Micro Business Non-Domestic Customer, together with any other Relevant Activities as the Authority may direct from time to time, following consultation.

Information on Third Party Costs

~~7A.10C.1 20.6~~ In addition to the requirement in condition ~~7A.9~~, where the licensee has entered into a ~~Micro Business Consumer Contract~~, the licensee must provide to the Micro Business Non-Domestic Customer on request, information relating to any form of Third Party Costs paid or made, or due to be paid or made by the licensee, to a Third Party in respect of the full duration of that ~~Micro Business~~ Non-Domestic Consumer Contract;

~~7A.10C.2 20.6A~~ The licensee must ensure that the information that the licensee is required to disclose by virtue of condition

~~7A.10C.1 20.6B~~:

- (a) for Micro Business Consumers is disclosed as monies, whether actual amounts or (if that is not possible) estimated amounts and as a cost per unit of energy or a cost per day (month) where it forms part of a daily (monthly) standing charge;
- (b) for Non-Domestic Customers who do not qualify as a Micro Business Consumer, is disclosed as a cost per unit of energy or a cost per day (month) where it forms part of a daily (monthly) standing charge;
- (~~b~~ c) enables a ~~Micro Business Consumer~~ Non-Domestic Customer to understand the amount of those sums that it is due to pay which are, or are attributable to Third Party Costs due to the Third Party, as well as any Charges (so far as they are different) or other sums; and
- (~~e~~ d) is drafted in plain and intelligible language.

Appendix 2 – Proposed Complaints Handling Standards Modification

Proposed modifications are set out below with insertions double underlined and deletions shown in strikethrough (~~strikethrough~~). Please note this draft text is dependent on the outcome of government’s consultation on expanding access to redress via the Energy Ombudsman to include Small Business Consumers and the exact drafting may be subject to change. The government consultation can be accessed here:

<https://www.gov.uk/government/consultations/new-threshold-for-businesses-accessing-the-energy-ombudsman>

S T A T U T O R Y I N S T R U M E N T S

2008 No. 1898

ELECTRICITY

GAS

The Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008

Made

16th July 2008

Coming into force

1st October 2008

The Gas and Electricity Markets Authority **F1** in exercise of the powers conferred by sections 43, 44, 46 of the Consumers, Estate Agents and Redress Act 2007 **F2**, after considering the results of research to discover the views of a representative sample of persons likely to be affected and after consultation with persons and bodies appearing to be representative of persons likely to be affected by the Regulations in accordance with section 44(1) of that Act, and with the consent of the Secretary of State in accordance with section 43(4) of that Act, makes the following Regulations:

PART 1

General

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008 and shall come into force on 1 October 2008.

(2) These Regulations do not apply to Northern Ireland.

Interpretation

2.—(1) In these Regulations

“the Act” means the Consumers, Estate Agents and Redress Act 2007;

“the Authority” means the Gas and Electricity Markets Authority established by section 1 of the Utilities Act 2000 **M3**;

[F1“Citizens Advice” means the National Association of Citizens Advice Bureaux;]

[F1“Citizens Advice Scotland” means the Scottish Association of Citizens Advice Bureaux;]

“complaint” means any expression of dissatisfaction made to an organisation, related to any one or more of its products, its services or the manner in which it has dealt with any such expression of dissatisfaction, where a response is either provided by or on behalf of that organisation at the point at which contact is made or a response is explicitly or implicitly required or expected to be provided thereafter;

“complainant” means a person making a consumer complaint;

“complaints handling procedure” means a procedure which complies with Regulation 3 and which sets out how a consumer complaint can be made to, and will be handled and progressed by, each regulated provider;

[F2“the consumer advice scheme” means the consumer advice scheme supported by Citizens Advice or Citizens Advice Scotland, or by them jointly, under article 2 of the Public Bodies (The Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions) Order 2013 S.I. 2013/783;]

[F3“consumer advocacy body” means Citizens Advice or Citizens Advice Scotland;]

“consumer complaint” means a complaint, other than a network outage report, which is made against a regulated provider either (a) by a person in that person’s capacity as a relevant consumer or small business consumer in relation to that regulated provider; or (b) by a person acting on behalf of such a relevant consumer or small business consumer;

“consumer complaints report” means the report which is to be prepared and published in accordance with Regulation 11;

F4...

F4...

“domestic consumer” means a person supplied or requiring to be supplied with gas or electricity at domestic premises (but excluding such person insofar as he is supplied or requires to be supplied with gas or electricity at premises other than domestic premises);

“domestic premises” means premises at which a supply of gas or electricity is taken or to be taken wholly or mainly for domestic purposes;

“existing consumer complaint” means a consumer complaint which has been received by a regulated provider and whose details have been or should have been recorded by that regulated provider in accordance with Regulation 4(1);

“micro business consumer” means any person, other than a domestic consumer or small business consumer, who a regulated provider knows or, acting reasonably, considers falls within the description of consumers who are covered by a Section 47 Order;

“network outage” means an interruption to a relevant consumer or small business consumer's supply of gas or electricity;

“network outage report” means a complaint or other contact made by a relevant consumer or small business consumer or a person acting on behalf of a relevant consumer or small business consumer to a regulated provider where that complaint or contact consists wholly or primarily in the reporting to that regulated provider of the existence of a network outage;

“Office of Fair Trading” means the body of that name which is established by section 1 of the Enterprise Act 2002 **M4**;

“qualifying redress scheme” means a redress scheme which is approved by the Authority in accordance with section 49 of the Act or which is administered and designated in accordance with section 47(1)(b) of the Act;

“regulated provider” means any one or more of the following as the context requires:

(a) a person holding a licence under section 7A(1) of the Gas Act 1986 **M5**;

(b) a person holding a licence under section 7(2) of the Gas Act 1986 **M6**;

(c) a person holding a licence under section 6(1)(d) of the Electricity Act 1989 **M7**;

(d) a person holding a licence under section 6(1)(c) of the Electricity Act 1989;

“relevant consumer” means any one or more of the following as the context requires:

(a) a person who is a domestic consumer or a micro business consumer in relation to gas supplied by a regulated provider;

(b) a person who is a domestic consumer or a micro business consumer in relation to electricity supplied by a regulated provider;

(c) a person who is a domestic consumer or a micro business consumer in relation to services provided by a regulated provider;

“resolved complaint” means a consumer complaint in respect of which there remains no outstanding action to be taken by the regulated provider and which has been resolved to the satisfaction of the relevant consumer or small business consumer who made that consumer complaint or on whose behalf that consumer complaint was made;

“section 12 and 13 complaint” means a complaint to which any one or more of section 12(3), section 12(4), section 13(2) or section 13(3) of the Act applies or apply;

“Section 47 Order” means an Order which has been made by the Secretary of State in accordance with section 47 of the Act and which is in effect;

“small business consumer” means [definition subject to outcomes from government’s redress expansion consultation]

“specified time period” means the time period specified in a qualifying redress scheme as the maximum time period that a regulated provider has to resolve a consumer complaint before the relevant consumer or small business consumer who made that consumer complaint, or on whose behalf that consumer complaint was made, becomes entitled to refer that consumer complaint to a qualifying redress scheme;

“vulnerable consumer” means a person who is vulnerable for the purposes of section 12(2) of the Act; and

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971 **M8**;

PART II

Standards for handling consumer complaints

Regulated providers' complaints handling procedure

3.—(1) A regulated provider must have in place at all times a complaints handling procedure.

(2) Each regulated provider must comply with its complaints handling procedure in relation to each consumer complaint it receives.

(3) Each regulated provider's complaints handling procedure must:

(a) be in plain and intelligible language;

(b) allow for consumer complaints to be made orally (by telephone or in person at the regulated provider's business premises) or in writing (including by email);

(c) allow for consumer complaints to be progressed through each stage of the complaints handling process orally (by telephone or in person at the regulated provider's business premises) or in writing (including by email);

(d) describe the steps which the regulated provider will take with a view to investigating and resolving a consumer complaint and the likely timescales for each of those steps;

(e) provide for an internal review of an existing consumer complaint where a complainant indicates that they would like such a review to occur because they are dissatisfied with the handling of that consumer complaint;

(f) inform relevant consumers and small business consumers of the names and contact details of the main sources of independent help, advice and information that are available to them. For these purposes a source of help, advice and information shall be independent if it is independent of regulated providers, a qualified redress scheme and the Authority;

(g) describe the relevant consumer's and small business consumer's right to refer a consumer complaint to a qualifying redress scheme:

(i) on and from the point at which the regulated provider notifies the relevant consumer or small business consumer in writing that it is unable to resolve the consumer complaint to the relevant consumer's or small business consumer's satisfaction; and

(ii) after the expiry of the specified time period; and

(h) set out the different remedies that may be available to a relevant consumer or small business consumer under the complaints handling procedure in respect of a consumer complaint, which remedies must include:

(i) an apology;

(ii) an explanation;

(iii) the taking of appropriate remedial action by the regulated provider; and

(iv) the award of compensation in appropriate circumstances.

(4) Those regulated providers who hold a licence under:

(a) section 7A(1) of the Gas Act 1986; or

(b) section 6(1)(d) of the Electricity Act 1989,

must include in their complaints handling procedure as a remedy the award of compensation to domestic consumers, in appropriate cases, where the domestic consumer has been adversely affected by a failure of that regulated provider to comply with its obligations under, respectively, standard condition 25 (~~Marketing gas to domestic customers~~ Informed choices – Tariff comparability and marketing) of the Standard Conditions

of the Gas Supply Licence or standard condition 25 (~~Marketing electricity to domestic customers~~ Informed choices – Tariff comparability and marketing) of the Standard Conditions of the Electricity Supply Licence.

Recording complaints upon receipt

4.—(1) Upon receipt of a consumer complaint a regulated provider must record in a written, electronic format the following details:

- (a) the date that the consumer complaint was received;
- (b) whether the consumer complaint was made orally or in writing;
- (c) the identity and contact details of the relevant consumer or small business consumer making the consumer complaint or on whose behalf the consumer complaint is made;
- (d) where the regulated provider who receives the consumer complaint or small business consumer holds a licence under section 7A(1) of the Gas Act 1986 or under section 6(1)(d) of the Electricity Act 1989 or both, the account details of the relevant consumer or small business consumer making the consumer complaint or on whose behalf the consumer complaint is made;
- (e) a summary of the consumer complaint;
- (f) a summary of any advice given or action taken or agreed in relation to the consumer complaint;
- (g) whether the consumer complaint has become a resolved complaint and, if so, the basis upon which the regulated provider considers that the consumer complaint is a resolved complaint; and
- (h) the method for future communication (if any) that has been agreed with the complainant.

(2) Where any subsequent contact is made with the regulated provider in relation to an existing consumer complaint that regulated provider must, upon receipt of that subsequent contact, record:

- (a) the date of that contact;
- (b) whether the subsequent contact was made orally or in writing;
- (c) whether the complainant making the subsequent contact is the same complainant as, or different to, the complainant who made the original contact regarding an existing consumer complaint and, where different, the identity and contact details of the complainant making the subsequent contact;
- (d) a summary of that contact;
- (e) a summary of any advice given or action taken or agreed in response to any points raised in that contact;
- (f) whether the consumer complaint has become a resolved complaint and, if so, the basis upon which the regulated provider considers that the consumer complaint is a resolved complaint; and
- (g) the method for future communication (if any) that has been agreed with the complainant.

(3) All details recorded in accordance with paragraph (2) must be clearly linked to an existing consumer complaint.

(4) For the purposes of paragraphs (1) and (2) and Regulation 5, a consumer complaint or any subsequent contact shall be treated as having been received by a regulated provider:

(a) where the consumer complaint or subsequent contact is made orally (by telephone or in person at the regulated provider's business premises), at the time at which it is received by that regulated provider;

(b) where the consumer complaint or subsequent contact is made in writing (including by email) and it is received before 1700 hours on a working day, on the working day that it is received by that regulated provider;

(c) where the consumer complaint or subsequent contact is made in writing (including by email) and it is received by the regulated provider after 1700 hours on a working day or at any time on a day that is not a working day, on the first working day immediately following the day upon which it is received by that regulated provider.

(5) Where a complainant claims to have made a consumer complaint in respect of a matter but it is not possible to identify a relevant existing consumer complaint, the regulated provider must record the fact that it is unable to trace the existing consumer complaint.

(6) Where a regulated provider has recorded that a consumer complaint is a resolved complaint but subsequent contact from a complainant in relation to that consumer complaint indicates that it is not a resolved complaint, the regulated provider:

(a) must record details of this change in the consumer complaint's status in its recording system;

(b) must as soon as reasonably practicable after becoming aware of the fact that the consumer complaint is not a resolved complaint:

(i) direct the complainant to the complaints handling procedure on its website; and

(ii) offer to provide a copy of the complaints handling procedure to the complainant free of charge;

(c) must take account of that consumer complaint in any report which it is obliged to prepare and publish in accordance with Regulation 11; and

(d) shall not otherwise be entitled to treat that consumer complaint as a resolved complaint for the purposes of these Regulations until that consumer complaint is demonstrably a resolved complaint.

Recording handling of complaints

5.—(1) In addition to recording information in accordance with Regulation 4, each regulated provider must keep a written, electronic record of the matters specified in paragraph (2) below for each consumer complaint

which it receives where that consumer complaint has not become a resolved complaint by the end of the working day after the day on which the consumer complaint was first received by that regulated provider.

(2) The matters which must be recorded in accordance with paragraph (1) are:

- (a) the steps the regulated provider has taken in response to each such consumer complaint, including any steps it has taken to resolve that consumer complaint;
- (b) the date (if any) upon which any such consumer complaint became a resolved consumer complaint;
- (c) the date (if any) upon which the specified time period expired; and
- (d) the date (if any) upon which the relevant consumer who made the consumer complaint, or on whose behalf the consumer complaint was made, was informed of their right to refer that consumer complaint to a qualifying redress scheme in accordance with Regulation 6(3).

Signposting consumers to the redress scheme if complaints cannot be resolved

6.—(1) The regulated provider must send a relevant consumer or small business consumer a written notice informing that relevant consumer or small business consumer of the matters addressed at paragraph (2) in the circumstances described at paragraph (3).

(2) A notice sent in accordance with paragraph (1) must notify the relevant consumer or small business consumer:

- (a) of their right to refer the consumer complaint to a qualifying redress scheme;
- (b) that the qualifying redress scheme process is independent of the regulated provider;
- (c) that the qualifying redress scheme process is free of charge to the relevant consumer or small business consumer and to any other category of complainant;
- (d) of the types of redress that may be available under a qualifying redress scheme; and
- (e) that any outcome of the qualifying redress scheme process is binding upon the regulated provider but not upon the relevant consumer or small business consumer or any other category of complainant.

(3) A regulated provider must send a notice to a relevant consumer or small business consumer in accordance with paragraph (1) on the earlier of:

- (a) the first working day after the day (if any) upon which that regulated provider becomes aware that it is not able to resolve a consumer complaint to that relevant consumer's or small business consumer's satisfaction; and
- (b) the date upon which the specified time period for that consumer complaint expires unless that date falls on a day that is not a working day, in which case the first working day thereafter.

Allocation and maintenance of adequate resources for complaints handling

7.—(1) Each regulated provider must:

- (a) receive, handle and process consumer complaints in an efficient and timely manner; and
- (b) allocate and maintain such level of resources as may reasonably be required to enable that regulated provider to receive, handle and process consumer complaints in an efficient and timely manner and in accordance with these Regulations.

Section 12 and 13 complaints

8.—(1) A regulated provider must, after discussion with **[F5the consumer advocacy bodies]**, put in place appropriate arrangements to deal effectively with section 12 and 13 complaints.

(2) If **[F6a consumer advocacy body]** refers a vulnerable consumer or a consumer complaint relating to a vulnerable consumer to a regulated provider, that regulated provider must take such additional steps as it considers necessary or appropriate with a view to, as appropriate, assisting that vulnerable consumer and resolving the relevant consumer complaint in an appropriate and prompt manner.

Referral of consumers from [F7the consumer advice scheme]

9.—(1) Each regulated provider must, after discussion with **[F8the consumer advocacy bodies]**, put in place appropriate arrangements to deal effectively with referrals to it from **[F9the consumer advocacy bodies]** of consumer complaints and, if appropriate, complainants.

(2) The arrangements required by paragraph (1) must set out a process by which **[F10the consumer advocacy bodies]** may make such referrals to the regulated provider.

PART III

Supply of information to consumers

Information to be provided to consumers

10.—(1) Each regulated provider must ensure that its complaints handling procedure appears at a clear and prominent location on its website.

(2) Where a consumer complaint has not become a resolved complaint by the end of the first working day after the day the consumer complaint was first received by a regulated provider, the regulated provider must as soon as reasonably practicable (unless it has already done so in respect of the relevant consumer complaint):

(a) direct the complainant to the complaints handling procedure on its website; and

(b) offer to provide a copy of the complaints handling procedure to the complainant free of charge.

(3) Each regulated provider [F11 who holds a licence under section 7A(1) of the Gas Act 1986 or section 6(1)(d) of the Electricity Act 1989 or both] must, at least once in every twelve-month period, inform all of its domestic consumers (or arrange for all of its domestic consumers to be informed) of the existence of its complaints handling procedure and how a relevant consumer may obtain a copy of it.

(4) A regulated provider must provide a copy of its complaints handling procedure, free of charge, to any person who requests a copy.

Publication of information on complaints

11.—(1) Regulated providers who hold a licence under section 7A(1) of the Gas Act 1986 or a licence under section 6(1)(d) of the Electricity Act 1989 or both, must:

(a) publish annually a consumer complaints report at a prominent location on their website; and

(b) provide a copy of their consumer complaints report, free of charge, to any person who requests a copy.

(2) A consumer complaints report is a report in relation to the twelve-month period ending with the month immediately preceding the month in which the report is published which contains the following information:

(a) the number of consumer complaints which the regulated provider received from domestic consumers during that period which had not become resolved complaints by the end of the first working day after the day the consumer complaint was first received by the regulated provider;

(b) that the regulated provider has a complaints handling procedure;

(c) how a copy of that procedure may be obtained;

(d) the existence of these Regulations; and

(e) how and from where a copy (including a hard copy) of these Regulations may be obtained.

The seal of the Gas and Electricity Markets Authority here affixed is authenticated by the signature of

L.S.

Sarah Harrison

A member of the Gas and Electricity Markets Authority

I consent

Gareth Thomas

Parliamentary Under-Secretary of State for Trade and Consumer Affairs

Department for Business, Enterprise and Regulatory Reform

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe standards for the handling of consumer complaints by regulated providers and for the supply of information to consumers about the prescribed standards and levels of compliance with those standards.

The Regulations come into force on 1 October 2008.

Regulation 1 provides for the citation, commencement and extent of the Regulations and Regulation 2 provides for the interpretation of the Regulations.

Regulation 3 requires regulated providers to have a complaints handling procedure for handling all consumer complaints from receipt through to resolution. The requirements differ amongst regulated providers, with some being required to award compensation in specific circumstances, where appropriate.

Regulation 4 specifies the information about consumer complaints that must be recorded by regulated providers upon receipt of such complaints.

Regulation 5 specifies the information that must be recorded by regulated providers about consumer complaints that have not been resolved by the regulated provider by the end of the next working day.

Regulation 6 requires regulated providers to inform consumers in writing of the consumer's right to refer the consumer complaint to the redress scheme on the earlier of (1) when the regulated provider realises that the consumer complaint cannot be resolved to the satisfaction of the consumer, or (2) the expiry of the time period that the regulated provider has to resolve the complaint.

Regulation 7 sets out how regulated providers should deal with consumer complaints and requires that they allocate sufficient resources to enable them to do so.

Regulation 8 requires regulated providers to establish arrangements to deal with the investigation of vulnerable consumer complaints and the investigation of complaints relating to disconnection of gas or electricity. Regulated providers should also take necessary or appropriate additional steps to resolve consumer complaints that involve vulnerable consumers.

Regulation 9 requires regulated providers to establish arrangements for the referral of consumer complaints or, where applicable, complainants from ~~Consumer Direct~~ the consumer advocacy bodies to the regulated provider.

Regulation 10 requires regulated providers to make information concerning their complaints handling procedures available to consumers in particular ways and at particular times.

Regulation 11 requires regulated providers who hold supply licences to prepare and publish an annual report concerning their complaints handling procedure, mentioning the existence of the Regulations and setting out

certain details concerning the consumer complaints they have received from domestic consumers during the relevant period.

An impact assessment that took the Regulations into consideration, has been prepared and was included in the full Impact Assessment which accompanied the document 'Consumers, Estate Agents and Redress Act 2007; Measures to Strengthen and Streamline Consumer Advocacy.' A copy is available from the Department for Business Enterprise and Regulatory Reform, Victoria Street, London SW1H 0ET and can also be found at <http://berr.gov.uk/files/file43215.pdf>.

Appendix 3 – Draft Update Standards of Conduct Guidance

Guidance – Standards of Conduct

Publication date:	7 December 2023
Contact:	NonDomesticRetailPolicy@ofgem.gov.uk
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To note for this consultation of the Draft Update document:

This document is a draft update to the version published on 21/02/2019 and adds to the changes proposed on 6/11/2023. This draft shows new amends highlighted in yellow. Where the text is proposed to be deleted, the highlighted text shows as strikethrough, and where the text is proposed to be added, the highlighted text has normal text (no strikethrough). The new section we proposed adding in in November, entitled "What does this mean in practice" sets out examples to illustrate non-compliance with the Supply Licence Condition (SLC) 0A, to assist Non-Domestic suppliers to understand the existing licence requirement. We are still reviewing responses to this proposal, but include it here for completeness as there are additional changes proposed in that section, to reflect to proposed licence change. A note in italics before the new section reminds the reader which text was included in November. To note, the document structure has also been updated to reflect the current Ofgem Guidance template and ensure accessibility.

*We welcome comments by **31 January 2024** on this proposed update.*

Original text:

This is a guide to the Standards of Conduct (SLC 0 and SLC 0A). These are enforceable overarching rules aimed at ensuring licensees, and their representatives in the case of domestic suppliers, treat each domestic and ~~microbusiness~~ Non-Domestic customer fairly. The guide is relevant for all suppliers of domestic and ~~microbusiness~~ Non-Domestic customers. Ofgem may update this guide from time to time. Suppliers are responsible for keeping up to date with the latest version of the rules.

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What are the Standards of Conduct?

The domestic and Non-Domestic Standards of Conduct form the foundation stone of the gas and electricity supply licences. They are enforceable broad principle-based rules that apply across a range of supplier-customer activities.⁷⁰ They highlight our fundamental expectations regarding **how suppliers (and their representatives⁷¹ in the case of domestic suppliers) must ensure that each customer is treated fairly**. This goes above and beyond taking 'all reasonable steps' to treat customers fairly, as was previously in the licence.

Suppliers should be continually striving to adopt and embed a consumer-centric culture and ensure their conduct results in all customers being treated fairly. Where we need to assess whether a customer has been treated fairly, we will consider a range of factors including, importantly, the outcomes a supplier has delivered for the consumer.

These broad principles relate to how suppliers behave, provide information, and carry out customer service processes. In the case of domestic consumers, the Standards also relate to how suppliers seek to identify each consumer in a vulnerable situation and respond to their needs.

Remember:

- The Standards contain enforceable overarching principles that are relevant across many supplier activities and licence guide themes. The Standards work alongside other rules in the supply licences, and suppliers should bear the Standards in mind when considering how to comply with their other licence obligations.
- Suppliers should adapt the standards appropriate and apply them as relevant to the type of customer they are engaging with.

What's the purpose of the Standards of Conduct?

The Standards of Conduct are about the relationship between energy suppliers and consumers. We expect the Standards to be embedded throughout each supplier, driven by the Board and senior management, and understood by all staff. We expect these

⁷⁰ The domestic Standards apply to all activities of the licensee and any Representative which involve, or otherwise relate to, dealings with a Domestic Customer. The non-domestic Standards are narrower and relate only to designated activities – see the section "What is the scope of the Standards of Conduct" for more details of what this includes.

⁷¹ Any person directly or indirectly authorised to represent the licensee in its dealings with customers.

principles of fairness to be factored into the design, monitoring and revision of all products, policies and processes. This is to help ensure that suppliers have the appropriate culture in their businesses to consistently deliver fair outcomes for all energy consumers. We also expect suppliers to consider innovative approaches to delivering fair treatment.

We added the Standards to the supply licences in 2013 as part of the Retail Market Review reforms, to improve supplier behaviour and consumer trust in the energy market. The Standards were a critical first step towards more reliance on regulation through general enforceable principles. We think that this will better protect consumers' interests by

- a) focusing our efforts as a regulator on good customer outcomes and more effective and comprehensive consumer protection,
- b) creating room for innovation, so suppliers can be more flexible in how they meet the needs of customers, including those in vulnerable situations, and
- c) putting a much greater onus on suppliers, especially senior management, to treat consumers fairly.

What's the scope of the Standards of Conduct?

The domestic Standards apply to all activities of the licensee and any representative which involve, or otherwise relate to, dealings with a domestic customer. This includes, for example, everything from when they are marketing energy deals to them, to responding appropriately when customers make a complaint about any aspect of their energy supply, to facilitating customers who wish to switch away to a different tariff or supplier. **This applies to domestic electricity suppliers and gas suppliers.**

The Non-Domestic Standards relate to certain aspects of billing, contract, and transfer activities that suppliers engage in with **microbusiness Non-Domestic Customers**. They don't cover as many types of interactions as the domestic Standards and do not apply to a supplier's representatives.

Specifically, the Non-Domestic Standards cover 'designated activities', which means:

- The accuracy of a bill or statement of account,
- The timeframe for a **microbusiness non-domestic** customer receiving a bill or statement of account and the timeframe for the payment of a bill,
- Any written or oral communication regarding billing or contractual information,

- Customer transfers,
- Any matters relating to deemed contracts,
- Any matters which fall within the scope of SLCs 7A, ~~14, 14A and 21B~~ (in so far as they relate to a Micro Business Consumer⁷²) and any matters which fall within the scope of standards conditions 14, 14A and 21B (in so far as they relate to a Non-Domestic Customer).⁷³

Note that in the event of a conflict between the non-domestic Standards and SLC 14.2 (relating to non-domestic transfer blocking), the Standards take precedence. The effect of this is that a contract term allowing for an objection must itself be fair under the Standards.

The amount of any charge or fee is out of scope of the Standards, apart from matters relating to deemed contracts. However, whether a supplier decides to apply or waive a charge or fee for a product or service is in scope of the Standards. This is true for both the domestic and non-domestic Standards.

⁷² Electricity microbusiness customers are those with an annual consumption of not more than 100,000 kWh OR fewer than 10 employees and an annual balance sheet/turnover not exceeding €2 million. Gas microbusiness customers are those with an annual consumption of not more than 293,000 kWh OR fewer than 10 employees and an annual balance sheet/turnover not exceeding €2 million.

⁷³ SLC 7A is about supplying micro business consumers, including rules on information that must be provided and contracts. SLC 14A is about customer transfers and SLC 14 is about transfer blocking. SLC 21B is about billing based on meter readings.

What are the broad principles suppliers must follow?

The domestic Standards have an overarching objective and then four 'limbs' (three for the non-domestic Standards⁷⁴). Suppliers (and their representatives, in the case of domestic consumers) must achieve the 'limbs' in a manner consistent with the overarching objective. The table below sets these 'limbs' out and gives some examples of what they mean in practice.

Customer objective	Suppliers, and their representatives ⁷⁵ , treat each customer fairly			
'Limbs' of the Standards	Behaviour towards consumers	Providing customers with information	Customer service processes	Considering vulnerable domestic customers
Which customers does it apply to?	Applies to domestic and non-domestic suppliers	Applies to domestic and non-domestic suppliers	Applies to domestic and non-domestic suppliers	Applies to domestic suppliers
What this means in practice	Suppliers must behave and carry out any actions in a fair, honest, transparent, appropriate and professional manner	Suppliers must provide information (whether in writing or orally) which, amongst other things is complete, accurate, and not misleading and displayed in plain and, intelligible language, as well as being appropriate and fair	Suppliers must make it easy for consumers to contact them, act promptly to put things right when they make a mistake, and ensure customer service arrangements are fit for purpose	Suppliers must identify and understand the characteristics, circumstances and needs of vulnerable customers and satisfy themselves that their actions are resulting in vulnerable consumers being treated fairly
Consumer outcome	Consumers have a positive experience when dealing with their supplier and are not put off future engagement	Consumers receive the right information – at the right time and in a suitable format – in order to make decisions about their energy supply	Consumers' expectations are met by the supplier's processes and their issues are resolved appropriately	Consumers' vulnerable situations are taken into account by a supplier so all consumers can participate effectively in the market

How Ofgem applies the Standards of Conduct

There are four parts to the Standards: **the customer objective, the fairness test, the broad principles** and the **compliance threshold**. These component parts are assessed together when we apply the Standards. ~~The diagram gives an example of how we may apply them.~~

⁷⁴ The vulnerability limb only applies to the domestic Standards and not the non-domestic Standards. For the non-domestic Standards, these limbs only apply to 'designated activities'.

⁷⁵ The reference to representatives only applies to domestic suppliers.

When we monitor the markets we will look for instances where it appears suppliers are not upholding the customer objective of the Standards and delivering “Fair” outcomes for consumers. “Fair” is a defined term within the Standards. Ensuring each customer is treated fairly is the **customer objective** (SLC 0.1/0A.1).

We will consider what the licensee had either done or not done that may be unfair, and identify which **broad principle** is relevant (SLC 0.3/0A.3). The broad principles in the Standards relate to the four (three for non-domestic) ‘limbs’ outlined above: behaviour towards consumers, providing customers with information, customer service processes, and consideration of vulnerable domestic customers.

We will also consider whether the licensee’s actions and/or omissions met our **fairness test** (e.g. did it “give rise to a likelihood of detriment” to the consumer and does it appear that this detriment would not be “reasonable in all the relevant circumstances”?) (SLC 0.9/0A.9).

The fairness test recognises that suppliers need to carry out legitimate commercial activities (such as charging for services) and preserves their ability to exercise their rights under statute, as long as they do so lawfully and proportionately.

If a likelihood of customer detriment does arise, a supplier will have an opportunity to give a compelling reason why they consider the detriment to be “reasonable in all the relevant circumstances” if they think the customer has been treated fairly. This would happen as part of our ongoing **engagement and compliance** activities (SLC 0.2/0A.2).

If we believe actions or omissions were or are unfair under the fairness test, we will consider if and how to respond. This may depend on how the supplier has engaged with us (e.g., by self-reporting concerns and cooperating with our enquiries) and what the supplier has done to address the risk of harm and offer redress to consumers. Options for responding include enhanced monitoring and engagement, negotiating a package of redress for consumers, or opening an enforcement case.

Our [enforcement guidelines](#) set out the approach we take to enforcing against all licence conditions, including the Standards of Conduct.

As per opening note in this document, the following text is as per the publication of 6 November. As we are still reviewing responses to the 6 November publication, we have included it here for completeness and highlighted the changes as per the rest of this document.

What does this mean in practice? Update of examples focussing on SLC 0A.

Part 0A.8 of SLC 0A sets out that the licensee must have regard to any guidance on standard condition 0A. This section of the guidance provides, under each of the elements of the Standards of Conduct set out in 0A.3, summary examples of poor behaviours, including from enforcement and compliance activity. The Standards of Conduct in 0A.3 are set out in bold italics, with the examples bulleted underneath. These examples are not exhaustive. Links to published information, where available, appear in the next section.

0A.3 The Standards of Conduct are that the licensee:

a) behaves and carries out any actions in a fair, honest, transparent, appropriate, and professional manner;

Examples of poor behaviours include:

- Customers were not communicated appropriately with by their supplier, who had made billing errors that consequently gave rise to a likelihood of detriment (and actual detriment) to those customers, including significant catch-up bills, which was not reasonable in all the relevant circumstances.
- Customers in new premises going through lengthy change of tenancy processes were simultaneously threatened with disconnection if they did not pay off the debt from the previous tenant. These circumstances were aggravated by the change of tenancy process being protracted due to delays by the supplier and requests for documents a new tenant could not be reasonably expected to hold, while at the same time the supplier did not delay pushing ahead with threats of disconnection if outstanding debt from the previous tenant was not paid.
- Telling a customer who has completed a debt repayment plan that they cannot switch due to a further debt on the account that they had not been made aware of.

b) provides information (whether in Writing or orally) to each **Micro-Business Non Domestic** Customer which:

- i. is complete, accurate and not misleading (in terms of the information provided or omitted);***
- ii. is communicated (and, if provided in Writing, drafted) in plain and intelligible language with more important information being given appropriate prominence;***

- iii. relates to products or services which are appropriate to the **Micro Business Non Domestic** Customer to whom it is directed; and*
- iv. in terms of its content and in terms of how it is presented, does not create a material imbalance in the rights, obligations or interests of the licensee and the **Micro Business Non Domestic** Customer in favour of the licensee;*

Examples of poor behaviours include:

- Customers were not provided with information clearly, or at all, by their supplier in relation to credit balances on closed accounts, either on final bills issued, or in any other communication.
- Micro Business Consumers were not issued with Statement of Renewal Terms by their supplier that gave important information appropriate prominence.
- Customers signed contracts with a supplier believing that they had been sold a fixed price contract. However, prices increased within the contracted period. When they asked their supplier, the supplier pointed out that there was a clause deep within the contract that allowed them to increase prices in certain circumstances. The principal terms of contract relating to charges had not been made sufficiently clear to the customer before they signed up to the deal.

c) in relation to customer service arrangements:

- i. makes it easy for a **Micro Business Non Domestic** Customer to contact the licensee;*
- ii. acts promptly to put things right when the licensee makes a mistake; and*
- iii. otherwise ensures that customer service arrangements and processes are fit for purpose and transparent.*

Examples of poor behaviours include:

- A customer raised a complaint with their supplier, but the supplier made little or no attempt to contact the customer to discuss their case or attempt to put any issues right.
- A customer had moved into a business premises where the previous tenant had accumulated a debt. Despite being presented with evidence that there was a material change in circumstances (i.e., a new tenant had taken over the building), the supplier continued with the disconnection and did not act in a reasonable timeframe to put things right and reconnect the new tenant.

- A customer was advised they were only able to contact a supplier by web chat or web form, that was not saved or sent to the customer afterwards. This did not give the customer visibility of what they had raised and when, which made it more difficult for the customer to evidence the raising of a subsequent complaint.

Other useful information

Below is a (non-exhaustive) list of some other documents we have published that may help you understand the rules in this theme better. Suppliers may wish to consult other helpful materials about good practice, for example those published by Citizens Advice.

Document	Date
Conclusions from an enforcement investigation into United Gas and Power billing customers on inflated estimates.	Mar 2023
Our Consumer Protection Report highlighting good practice on how energy suppliers can protect consumers in vulnerable situations.	Oct 2021
Our report on vulnerable consumers in the energy market. This includes examples of good and poor practice relating to how suppliers are treating consumers in vulnerable situations.	June 2018
Our enforcement guidelines describe how we use our enforcement powers, provide redress and remedies for consumers, and punish or deter breaches or infringements. They also set out a number of actions we may take as an alternative to exercising our statutory enforcement powers.	Oct 2017
In 2017 we made some changes to the Standards, which are covered by this guide. For more details see our: <ol style="list-style-type: none"> 1. Final decision (Appendix 2 includes guidance on terms used in SLC 0/0A) 2. Statutory consultation 3. Policy consultation 4. Working paper 	Aug 2017 Jun 2017 Jan 2017 Aug 2016
Conclusions from an enforcement investigation into British Gas' compliance with obligations including SLC 7B (the non-domestic Standards).	Jun 2017*
Our 2016 Challenge Panel report . This panel explored how well suppliers had been embedding the Standards in their approaches to sales and marketing.	Jan 2017*
Conclusions from an enforcement investigation into Scottish Power's compliance with obligations including SLC 25C (the domestic Standards).	Jun 2016*

*These documents relate to old versions of licence conditions, as they were at the time (SLC 25C or SLC 7B). The rules may be different now, but we've included these documents in this guide because we think they could still be helpful for you to refer to.

NB: our [website](#) has a full list of all enforcement investigations.

Document	Date
Conclusions from an enforcement investigation into npower's compliance with obligations including SLC 25C (the domestic Standards).	Jan 2016*
Conclusions from an enforcement investigation into BES' compliance with obligations including SLC 7B (the non-domestic Standards).	Dec 2015*

We remind all suppliers that this guide does not modify or replace the conditions in the gas and electricity supply licences. Neither is it an exhaustive list of supplier obligations or information resources. This guide is designed to introduce you to the rules, highlight relevant supply licence obligations, and signpost to key information that may help you understand these rules. Suppliers should continue to refer to the conditions outlined in the most recent versions of the gas and electricity [supply licences](#).

Appendix 4 – Consultation Questions

Complete list of consultation questions

- Q1.** Alongside this consultation document we have published a draft impact assessment. Do you have any comments on the draft impact assessment published alongside this document, including the costs and benefits, competition impacts, and unintended consequences?
- Q2.** Is there anything that has not been included in the impact assessment that you believe should be included?
- Q3.** Do you agree with our proposal to expand the Standards of Conduct to all Non-Domestic Consumers? Please provide a reason for your view.
- Q4.** Do you have any comments on our proposed draft licence text for SLC 0A?
- Q5.** Do you agree with our proposal to implement the SoC as soon as the updated licence condition takes effect? Please provide a reason for your view.
- Q6.** Do you have any views on the updated draft Standards of Conduct Guidance?
- Q7.** Do you agree with our proposal to align with government proposals and expand the Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008 (CHS) to apply to Small Business Consumers? Please provide a reason for your view.
- Q8.** Do you have any further comments on the proposed drafting of the CHS Statutory Instrument text?
- Q9.** Do you have any comments on the proposed implementation timeline of 3 months from the date of decision?
- Q10.** Do you agree with our proposal to require suppliers to inform their Micro and Small Business Consumers (if this is applied) that they can access, and how to contact, Citizens Advice and Citizens Advice Scotland? Please provide a reason for your view.
- Q11.** What measures would suppliers intend to take to meet the obligation to signpost Small Business Consumers to Citizens Advice, and how would this impact costs?
- Q12.** Do you have any comments on our proposed draft licence text for SLC 20.5A and 20.4A in the gas and electricity supply licences respectively? This proposed

definition of Small Business Consumer includes Micro Business Consumers. However, do you think it would be preferable to explicitly set out in the licence condition that suppliers should signpost Micro Business Consumers and Small Business Consumers to Citizens Advice for the avoidance of doubt?

- Q13.** Do you agree with our proposed implementation timeframe of 3 months from the date of our final decision?
- Q14.** Do you agree with our proposed change? Please provide comments to support your answer.
- Q15.** Do you agree with the wording of the proposed licence condition changes outlined in Appendix 1?
- Q16.** Do you have any comments on the suggested implementation timescale of 8 months?
- Q17.** Do you agree with our proposed expansion of Third Party Cost transparency to all Non-Domestic customers? Please explain your answer.
- Q18.** Do you agree with our proposed methodology of displaying Third Party Costs? Please explain your answer.
- Q19.** Do you agree that our proposed timescale for implementation is achievable? Please explain your answer.
- Q20.** Do you have any views on whether to retain the presentation of a lump sum for Micro Business Consumers and to have only a cost per unit for all Non-Domestic consumers?
- Q21.** Do you have any views on the proposed wording of the supply licence conditions, in relation to this policy? Note that is SLC20.6 in the electricity supply licence and SLC20.7 in the gas supply licence.
- Q22.** Do you have any other comments on our proposals not asked specifically elsewhere in this document?

Appendix 5 – Glossary

A

Alternative Dispute Resolution Scheme (ADR)

Alternative dispute resolution (ADR) refers to ways of resolving disputes between consumers and traders that don't involve going to court.

C

Call for Input (CfI)

One of the ways we seek the views of stakeholders. These range from requests for information and evidence, to opportunities to join workshops or submit views via online surveys and other methods.

Calls for input have a closing date, but do not pass through the formal stages of a consultation or conclude with a regulatory decision.

Change of Occupier (CoO)

Change of Occupier (CoO) means that the Consumer occupying a premises has changed (or is due to change).

Change of Tenancy (CoT)

Moving into or out of a business premises where responsibility of the energy supply changes is known as a CoT or Change of Tenancy. The CoT process is the process through which you let your supplier know you are moving out of/into a property and thus need to either end or begin a new contract for your energy supply.

Complaints Handling Standards (CHS)

Complaints Handling Standards (CHS) prescribe the standards energy companies must meet when handling customer complaints. They apply to complaints from domestic consumers and Micro Business Consumers to gas and electricity supply companies (and to network companies i.e. gas transporters and electricity distributors). The standards are designed to provide effective protection for consumers and comprise a number of key requirements to which suppliers and network companies have to adhere when a customer makes a complaint

Commission for Regulation of Utilities (CRU)

The Commission for Regulation of Utilities (CRU) is Ireland's independent energy and water regulator.

D

Deemed Rates

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 electricity, but the original contract does not expressly provide for what will happen after expiry. It is different from an "Out of Contract" rate.

Distribution Network Operator (DNO)

The company that owns and operates the power lines and infrastructure that connect a premise to the transmission networks operated by National Grid, Scottish Power and Scottish and Southern Energy. There are fourteen electricity distribution networks, each of which covers a separate geographic region of Great Britain.

E

Energy Bill Relief Scheme (EBRS)

The Energy Bill Relief Scheme was a government scheme that provided energy bill relief for Non-Domestic Customers in Great Britain and Northern Ireland between 1 October 2022 and 31 March 2023. More details about can be found at: [Energy Bill Relief Scheme: help for businesses and other Non-Domestic Customers - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/energy-bill-relief-scheme-help-for-businesses-and-other-non-domestic-customers)

Energy Bill Support Scheme – Alternative Funding (EBSS-AF)

The Energy Bill Support Scheme – Alternative Funding provided £200 support for energy bills of domestic consumers in Great Britain whose household was not connected to the mains gas grid or used alternative fuels as the main form of heating. The scheme closed on 31 May 2023.

Energy Bill Support Scheme – Alternative Fuel Payment (EBSS – AFP)

The Energy Bill Support Scheme – Alternative Fuel Payment provided £400 support for energy bills of domestic consumers in Great Britain who did not have a direct relationship to a domestic electricity supplier. The scheme closed on 31 May 2023.

Energy Price Guarantee (EPG)

From 1 October 2022 up until 30 June 2023 the Energy Price Guarantee provided a support rate discount to all households with a domestic gas and/or electricity contract. Bringing a typical household energy bill for dual-fuel gas and electricity down to around £2,500 per year in Great Britain. The government has issued information about who can access this support from 1 July 2023: [Energy Price Guarantee - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/energy-price-guarantee)

G

Gas Distribution Network (GDN)

The company that operates gas pipelines and infrastructure that connect a premise to the transmission networks operated by National Grid. There are eight gas distribution networks (GDNs), each of which covers a separate geographical region of Great Britain.

H

Half-hourly (HH)

A way of metering energy use. Readings are made every half an hour via smart meters or advanced meters.

I

Industrial and Commercial (I&C)

Some of the largest uses of energy in the Non-Domestic sector, often involved in energy intensive processes.

Independent Distribution Network Distribution (IDNO)

Companies that operate smaller local electricity distribution systems within a wider distribution network area. The IDNOs networks are connected to DNOs network, but the same company can operate local distribution systems in any region, they are not limited to a geographic region.

Independent Gas Transporter (IGT)

Companies that operate smaller local gas delivery systems within a wider gas distribution network area. The IGTs are connected to the Gas Distribution Network, but the same company can operate local distribution systems in any region, they are not limited to a geographic region.

Impact Assessment (IA)

An Impact Assessment (IA) has been conducted to understand and evaluate the impact of the regulatory proposals in this consultation on customers, industry participants and distributional and competition impacts. Link to the impact assessment:

<https://www.ofgem.gov.uk/publications/non-domestic-market-review-findings-and-statutory-consultation>

K

Kilowatt hour (kWh)

Energy usage is calculated in kilowatt hours (kWh), sometimes also called 'units'. One kWh is enough to power a 100-watt lightbulb for 10 hours.

M

Maximum Resale Price Direction (MRP)

A direction issued under section 37 of the Gas Act 1986 and section 44 of the Electricity Act 1989 by Ofgem that fixes (by amount or methodology) the maximum price at which gas and electricity may be resold. The current MRP direction states that the maximum price at which each unit of gas or electricity may be resold shall be the same as that paid to the authorised supplier by the person reselling it.

Median

The median is the middle number in a sorted ascending or descending list of numbers. It is the middle point of the data set such that half of the data lies above and below it.

Mean

The mean is the average in a collection of numbers. It is calculated by dividing the sum of all values by the total number of values.

Megawatt Hour (MWh)

A Megawatt Hour is 1,000 kilowatt hours (kWh).

Micro Business Consumer

"Micro Business Consumer" means a Non-Domestic Customer:

- which is a “relevant consumer” (in respect of premises other than domestic premises) for the purposes of article 2(1) of The Gas and Electricity Regulated Providers (Redress Scheme) Order 2008 (S.I. 2008/2268); or
- which has an annual consumption of not more than 293,000 kWh of gas.
- which has an annual consumption of not more than 100,000 kWh of electricity.

N

Non-half hourly (Non-HH)

A way of metering energy use. It is based on estimates of when electricity is used, a profile of the average consumer usage and their own meter reads (taken over weeks and months).

O

Out of Contract (OoC)

Out of Contract rates are the rates customers are put onto, as defined by the terms of their contract, when their current contract continues to apply after the fixed term period of a contract has expired.

P

Pence per day (p/day)

The standing charge portion of an energy bill is usually charged in pence per day.

Pence per kilowatt hour (p/kWh)

The commodity portion of an energy bill is usually charged in pence per day.

Priority Services Register (PSR)

A Priority Services Register is a free support service for domestic consumers that makes sure extra help is available to people in vulnerable situations. A register is kept by licenced domestic energy suppliers and licenced network operators.

Q

Qualifying Dispute Resettlement Scheme (QDSS)

‘Qualifying Dispute Settlement Scheme’ means any scheme of dispute settlement, resolution and/or redress operated by the Relevant Energy Ombudsman or such other organisation as demonstrably provides independent, fair, effective and transparent out of court dispute settlement relating to Relevant Third Party Activities and constitutes a Qualifying Dispute Settlement Scheme in accordance with any Guidance issued by the Authority.

Qualifying Financially Disadvantaged Customers (QFDC)

As set out in Part 5 of the [EBRS GB Regulations](#) and the [EBRS NI](#). Qualifying Disadvantaged Customers were a section of customers receiving energy through deemed contracts who were eligible for one of the discounts applied to their bills through the Energy Bill Relief Scheme.

R

Retail Energy Code (REC)

The key rules that energy suppliers must follow when selling to UK Customers.

Retail Energy Code Company (RECCo)

A company established under the REC, to maintain, develop and provide oversight of the REC.

Request for Information (RFI)

These are formal Requests for Information that we issue to suppliers as part of our monitoring, and to support our regulation work.

S

Service Level Agreement (SLA)

A contract between a service provider and its customer that outlines the standards of service the provider is obligated to meet.

Standard Licence Condition (SLC)

Standard Licence Conditions are conditions that apply to all licensees of a particular licence type. These can be in and out of effect for licensees.

Standards of Conduct (SoC)

The SoC are set out in SLC 0 and 0A of the gas and electricity supply licences. These are enforceable overarching rules aimed at ensuring licensees, and their representatives in the case of domestic suppliers, treat each domestic and Micro Business Consumer fairly.

Small Business

Proposed definition for Small Business which the Government are currently consulting on is: 'A non-domestic customer is defined as a Small Business Consumer if they: employ fewer than 50 employees (or their full time equivalent) and has an annual turnover no greater than £8.5 million; or uses not more than 500,000 kWh of electricity per year; or uses no more than 500,000 kWh of gas per year.'

T

Targeted Charging Review (TCR)

A review done by Ofgem to examine the 'residual charges' which recover the fixed costs of providing existing pylons and cables, and the differences in charges faced by smaller distributed generators and larger generators (known as Embedded Benefits). The final decision on TCR was that residual charges would be levied in the form of fixed charges for all households and businesses, and that the liability for the Transmission Generation Residual for Generators would be removed and changes made to one of the 'Embedded Benefits' received by Smaller Distributed Generators in relation to balancing services charges.

Third Party Intermediary (TPI)

This means a third-party organisation or individual that, either on its own or through arrangements with other organisations or individuals, provides information and/or advice

to a Micro Business Consumer about the licensee's Charges and/or other terms and conditions and whose payment or other consideration for doing so is made or processed by the licensee.

Third Party Costs

This means any fees, commission or other consideration including a benefit of any kind, processed by the licensee and paid or made or due to be paid or made to the Third Party.

Appendix 6 - Privacy notice on consultations

Personal data

The following explains your rights and gives you the information you are entitled to under the General Data Protection Regulation (GDPR).

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the controller and contact details of our Data Protection Officer

The Gas and Electricity Markets Authority is the controller, (for ease of reference, "Ofgem"). The Data Protection Officer can be contacted at dpo@ofgem.gov.uk

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

As a public authority, the GDPR makes provision for Ofgem to process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

4. With whom we will be sharing your personal data

(Include here all organisations outside Ofgem who will be given all or some of the data. There is no need to include organisations that will only receive anonymised data. If different organisations see different set of data then make this clear. Be as specific as possible.)

5. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for *(be as clear as possible but allow room for changes to programmes or policy. It is acceptable to give a relative time e.g. 'six months after the project is closed')*

6. Your rights

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right to:

- know how we use your personal data
- access your personal data
- have personal data corrected if it is inaccurate or incomplete
- ask us to delete personal data when we no longer need it
- ask us to restrict how we process your data
- get your data from us and re-use it across other services
- object to certain ways we use your data
- be safeguarded against risks where decisions based on your data are taken entirely automatically
- tell us if we can share your information with 3rd parties
- tell us your preferred frequency, content and format of our communications with you
- to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

7. Your personal data will not be sent overseas (Note that this cannot be claimed if using Survey Monkey for the consultation as their servers are in the US. In that case use “the Data you provide directly will be stored by Survey Monkey on their servers in the United States. We have taken all necessary precautions to ensure that your rights in term of data protection will not be compromised by this”.

8. Your personal data will not be used for any automated decision making.

9. Your personal data will be stored in a secure government IT system. (If using a third party system such as Survey Monkey to gather the data, you will need to state clearly at which point the data will be moved from there to our internal systems.)

10. More information For more information on how Ofgem processes your data, click on the link to our “[ofgem privacy promise](#)”.