

Louise van Rensburg  
Head of Non-domestic Retail Policy  
Ofgem  
10 South Colonnade  
Canary Wharf  
London  
E14 4PU

31 January 2024

Sent by email to: NonDomesticRetailPolicy@ofgem.gov.uk

Dear Non-domestic Retail Policy team,

**RE: Non-domestic market review: Statutory consultation on licence changes –  
NON-CONFIDENTIAL VERSION**

We welcome the opportunity to comment on Ofgem's statutory consultation on licence changes following its non-domestic market review.

The policy consultation which preceded these proposals followed a period of high and volatile wholesale energy prices, which led to the Government providing significant help to businesses with their energy bills. Suppliers implemented two complex support schemes at great pace and British Gas has played its part to support customers on a voluntary basis.

Ofgem's proposed reforms build on existing licence conditions: they would offer sensible and proportionate additional protections, particularly to customers not currently in scope. For example:

- We agree with Ofgem's proposal to expand the Standards of Conduct (SOC). This should apply to all non-domestic customers. All customers should be treated fairly, irrespective of their size.
- We agree with Ofgem and DESNZ's proposal to extend complaint reporting and handling standards that currently apply to microbusinesses, including the ability to refer deadlocked complaints to the Ombudsman. These protections should apply to all customers. Recent events have shown the value of Ofgem having a better understanding of the experiences of all non-domestic customers.
- We agree with Ofgem's proposals to expand transparency of TPI commission and scope of the TPI Alternative Dispute Resolution (ADR) scheme. Both of these proposals should apply to all non-domestic customers. We see no reason why businesses of all size should not have these protections.

Whilst we support the extension of these protections to all customers, Ofgem proposes to limit some protections to 'small businesses'. We do not agree that the proposed consumer

protections should be limited in this way and are concerned that doing so will increase the complexity of implementation unnecessarily.

For example, if all customers were able to refer deadlocked complaints to the Ombudsman, then we would be able to notify customers of these provisions in a straightforward way because there would be no eligibility cut-off. However, if Ofgem and DESNZ restrict availability to small businesses only we would need to make changes to our systems and processes to identify and signpost protections to a subset of eligible customers.

Making these changes will take longer than three months.

We have responded separately to DESNZ's consultation on its proposed definition of small business.<sup>1</sup> The existing micro business thresholds are also too complex. DESNZ should simplify the microbusiness definition by removing the elements relating to employee numbers, turnover and balance sheet and moving to a 'consumption only' threshold. If DESNZ introduces a new small business definition, this should also be 'consumption only'.

We would be pleased to discuss any aspect of our response with Ofgem. Please get in touch with me at [essie.barnett@centrica.com](mailto:essie.barnett@centrica.com) if you would like to arrange a meeting.

Yours sincerely,

Essie Barnett  
Regulatory Manager

---

<sup>1</sup> [New threshold for businesses accessing the Energy Ombudsman \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/consultations/new-threshold-for-businesses-accessing-the-energy-ombudsman).

## **Appendix – responses to 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?

We have no comments.

## Standards of Conduct

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?

We agree with Ofgem's proposal to expand the Standards of Conduct (SOC) to all non-domestic customers. All customers should be treated fairly, irrespective of their size.

We have no further comments.

## Complaints Handling

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.

We agree with Ofgem's proposal to extend complaint reporting and handling standards that currently apply to microbusinesses, including the ability to refer deadlocked complaints to the Ombudsman. These protections should apply to all non-domestic consumers. We strongly believe that these protections should not be restricted to small business customers. There is not a good reason to restrict the standards, and doing so unnecessarily complicates implementation.

If all customers were able to refer deadlocked complaints to the Ombudsman, then we would be able to notify customers of these provisions in a straightforward way because there would be no eligibility cut-off. However, if Ofgem and DESNZ restrict availability to small businesses only we would need to make changes to our systems and processes to identify and signpost protections to a subset of eligible customers.

Making these changes will take longer than three months.

Ofgem has proposed to extend the Regulations to Small Business Consumers in line with government proposals on access to the Energy Ombudsman.<sup>2</sup> However, even with this limited extension of the Regulations some larger businesses (e.g. with low energy consumption) will still be included in the revised scope.<sup>3</sup> This means it will be important for Ofgem to consider how the CHS will be applied to larger businesses.

Complaints for larger customers are often more complex and can take longer to reasonably resolve. Due to the different types of complaints received across non-domestic we would encourage Ofgem to consider whether expectations of a resolution in a timely manner can be universally applied across all non-domestic. It may also be necessary to review the Ombudsman's agreed timescales to account for the additional complexity.

More broadly, the key to implementing a widening of access will be readiness across suppliers, regulatory bodies (Energy Ombudsman) and customers. This readiness must include additional complexity of cases that will ensue as we move up the B2B ladder.

For example, the following factors will increase case complexity:

- Customers with a larger volume of sites.
- More variations in contract type.
- Larger and more complex metering.

---

<sup>2</sup> [\\*New threshold for businesses accessing the Energy Ombudsman \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/674442/new-threshold-for-businesses-accessing-the-energy-ombudsman.pdf)

<sup>3</sup> DESNZ propose to define a Small Business Consumer in such a way that a company can meet the threshold in three different ways. These are (i) by having employee numbers and, turnover or balance sheet below the threshold; or (ii) by having electricity consumption below the threshold; or (iii) by having gas consumption below the threshold.

Q8. Do you have any further comments on the proposed drafting of the CHS Statutory Instrument text?

We have no comments.

Q9. Do you have any comments on the proposed implementation timeline of 3 months from the date of decision?

We already have a robust quality assurance framework in place that is aligned to the complaint handling standards and covers all our non-domestic customers. Whilst we support the extension of these protections to all customers, Ofgem is proposing to limit some protections to 'small businesses'. We do not agree that the proposed consumer protections should be limited in this way and are concerned that doing so will increase the complexity of implementation unnecessarily.

If all customers were able to refer deadlocked complaints to the Ombudsman, then we would be able to notify customers of these provisions in a straightforward way because there would be no eligibility cutoff. However, if Ofgem and DESNZ restrict availability to small businesses only we would need to make changes to our systems and processes to identify and signpost protections to a subset of eligible customers. Making these changes will take longer than three months.

## Signposting to relevant customer support services

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.

Our Micro Business Consumers are aware they can contact Citizens Advice for support. We make this clear on our website, in our complaint handling procedure and on the customer bill and therefore do not consider there is a need to introduce a rule requiring suppliers to signpost more specifically.

Here is an example of signposting to Citizens Advice on our bills:

Citizens Advice Consumer Service provides free, unbiased advice on consumer issues at [citizensadvice.org.uk/energy](https://citizensadvice.org.uk/energy) or call the helpline on 0345 404 0506.


Ofgem is now proposing to expand their proposal to also include small business customers contingent on an anticipated change to Citizens Advice's scope.

We continue to consider that signposting can be introduced without a licence requirement.



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?

Ofgem does not anticipate a significant change in suppliers expected costs as a result requiring signposting to micro businesses.<sup>4</sup> Ofgem have not estimated the additional cost of signposting to small businesses but anticipate that 'these costs may be higher'.<sup>5</sup>

As noted above, we already signpost Citizens Advice on our website, in our complaint handling procedure and on the customer bills . We already have a robust quality assurance framework in place that is aligned to the complaint handling standards and covers all our non-domestic customers. Whilst we support the extension of these protections to all customers, Ofgem is proposing to limit some protections to 'small businesses'. We do not agree that the proposed consumer protections should be limited in this way and are concerned that doing so will increase the complexity of implementation unnecessarily.

---

<sup>4</sup> They estimate set-up costs to be £268,000 (£0.14 per Micro Business Consumer) and the ongoing costs to be £23,000 (£0.01 per Micro Business Consumer) per year. [Draft impact assessment on non-domestic market review proposals \(ofgem.gov.uk\)](#)

<sup>5</sup> [Draft impact assessment on non-domestic market review proposals \(ofgem.gov.uk\)](#)

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?

**We have no comments.**

Q13. Do you agree with our proposed implementation timeframe of 3 months from the date of our final decision?

**Our view is that the implementation period should be consistent with that for extending the Complaints Handling Standards and that a three-month implementation period is likely to be too short. Ofgem should review this.**



## Third Party Intermediary redress scheme membership

Q14. Do you agree with our proposed change? Please provide comments to support your answer.

Ofgem should expand the requirement that any TPI energy suppliers work with be registered with a Qualifying Dispute Settlement Scheme (QDSS) to all customers. In line with our response to DESNZ's consultation<sup>6</sup> we do not believe there should be a threshold on which customers can access the Energy Ombudsman. Since the implementation of the ADR scheme last year, we have the processes and procedures in place to identify registered TPIs.

Whilst we support the extension of these protections to all customers, Ofgem is proposing to limit some protections to 'small businesses'. We do not agree that the proposed consumer protections should be limited in this way and are concerned that doing so will increase the complexity of implementation unnecessarily.

Q15. Do you agree with the wording of the proposed licence condition changes outlined in Appendix 1?

We have no comments.

However, we note that the definition of 'Relevant Third Party Activities' includes a reference to 'Non Domestic Consumer'. Ofgem should check that this is consistent with its policy intention.

Q16. Do you have any comments on the suggested implementation timescale of 8 months?

We consider six-months to be an appropriate lead time for setting up and registering for a wider TPI ADR scheme with the Energy Ombudsman due to the existing framework in place. For any other provider of a TPI ADR scheme we would envisage the timescale for set up and registration to be extended to nine months - the equivalent timescale provided for the implementation of the ADR scheme with the Energy Ombudsman. We reiterate that Ofgem will need to take care to ensure that the Energy Ombudsman is appropriately resourced and skilled to manage interactions with a different set of customers that may have more complex cases.

---

<sup>6</sup> [New threshold for businesses accessing the Energy Ombudsman \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/674442/consultation-response-2020-06-23.pdf)

## Displaying Third Party Intermediary costs

Q17. Do you agree with our proposed expansion of Third Party Cost transparency to all Non-Domestic customers? Please explain your answer.

We agree with Ofgem's proposals to expand transparency of TPI commission to all non-domestic customers. We see no reason why businesses of all size should not have these protections.

Q14. Do you agree with our proposed methodology of displaying Third Party Costs? Please explain your answer.

Yes, we agree.

Ofgem are proposing that:

*'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.'*<sup>7</sup>

Since October 2022, we have provided commission disclosures to consumers both as a total in pounds/pence and as a cost per unit of energy as we believe this is the best way to inform our customers on the amount of commission applied. Providing commission disclosures in both formats also addresses concerns that "presenting a lump sum could be open to gaming of expected annual quantities."<sup>8</sup>

Also, in line with the current process for commission transparency for microbusinesses, any disclosure should be hosted in a prominent place within the Principal Terms. We recognise many regulations operate differently when looking for bespoke pricing and applying a consistent approach to commission transparency would be the right thing to do to ensure all non-domestic consumers have access to the amounts they are paying.

Q15. Do you agree that our proposed timescale for implementation is achievable? Please explain your answer.

Yes, we agree with a 6-month implementation period.

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?

We agree that Micro Business Consumers should retain a lump sum presentation. Since October 2022, we have provided commission disclosures to consumers both as a total in pounds/pence and as a cost per unit of energy as we believe this is the best way to inform our customers on the amount of commission applied.

---

<sup>7</sup> [Non-domestic market review: findings and statutory consultation | Ofgem](#), Chapter 6.

<sup>8</sup> [Non-domestic market review: Findings and policy consultation \(ofgem.gov.uk\)](#), Paragraph 4.47.

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.

We have no comments.

#### Next steps

Q18. Do you have any other comments on our proposals not asked specifically elsewhere in this document?

Ofgem has proposed that it will revisit the 'questions raised' about a 'cooling off period' and plan to 'explore the core issues and consider next steps'.

We maintain our position outlined in our response to the microbusiness review that Ofgem has not demonstrated the necessary evidence to support the introduction of a cool off period for non-domestic consumers. Any attempt to introduce a cool off period should only be done so with full engagement with all stakeholders.