

## Energy UK response to [Consumer Consent Solution consultation](#)

**Deadline: 4<sup>th</sup> October**

### Executive Summary

Energy UK is the trade association for the energy industry with over 100 members - from established FTSE 100 companies right through to new, growing suppliers, generators and service providers across energy, transport, heat and technology.

Our members deliver nearly 80% of the UK's power generation and over 95% of the energy supply for 28 million UK homes as well as businesses.

The sector invests £13bn annually and delivers nearly £30bn in gross value - on top of the nearly £100bn in economic activity through its supply chain and interaction with other sectors. The energy industry is key to delivering growth and plans to invest £100bn over the course of this decade in new energy sources.

The energy sector supports 700,000 jobs in every corner of the country. Energy UK plays a key role in ensuring we attract and retain a diverse workforce. In addition to our Young Energy Professionals Forum, which has over 2,000 members representing over 350 organisations, we are a founding member of TIDE, an industry-wide taskforce to tackle Inclusion and Diversity across energy.

Energy UK supports a smart and secure electricity system that empowers customers to engage safely in activities, such as participating in data sharing and flexibility markets, whilst enabling room for innovation in the GB retail market. A customer consent system will help to support this objective.

However, the specifics of the consent platform must be clearly defined before any decisions are made. This requires an up-to-date, fully costed proposal and a comprehensive cost-benefit analysis. Once these are completed, a separate, formal decision point should be established. Premature advancement could undermine the project's success, and the selection of a delivery body should not occur until these foundational concerns are addressed.

If you have any questions about this response or wish to engage with Energy UK and its members, we would welcome further engagement.

Kind regards,

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## **Consultation Questions**

### **Section 3**

#### **1. Do you agree with these Design Principles? Would you recommend any additional Design Principles?**

As outlined in the Energy UK response to the Call for Input: Data Sharing in a Digital Future, Energy UK supports a smart and secure electricity system that empowers customers to engage safely in activities, such as participating in data sharing and flexibility markets, whilst enabling room for innovation in the GB retail market. A customer consent system will help to support this objective.

As the energy market evolves with new entrants and shifting regulations, several ongoing initiatives—such as the Smart and Secure Electricity System (SSES) and Flexibility Market Asset Registration—are driving digitalisation and enhancing customer protections. These rely on the establishment of a robust consumer consent platform.

Additionally, there is already significant third-party access to data through Smart DCC, governed by the Smart Energy Code (SEC). With the introduction of Market-wide Half-Hourly Settlement (MHHS) and Elexon's smart meter data repository, the complexity of the data ecosystem will only increase. This underscores the need for a lasting and effective consumer consent platform.

However, in this increasingly digital environment, Energy UK has identified several critical concerns that must be addressed before advancing the consent workstream. While the design principles appear sound in theory, greater clarity is needed around the specific form the solution will take, the funding mechanisms, and how customer engagement will be managed to ensure cost-effectiveness and mutual benefit for both consumers and the energy system.

The specifics of the consent platform must be clearly defined before any decisions are made. This requires a fully costed proposal and a comprehensive cost-benefit analysis. Once these are completed, a separate, formal decision point should be established. This ensures that after reviewing the financial and strategic implications, a well-informed decision can be made about whether to proceed with delivery and implementation. Premature advancement could undermine the project's success, and the selection of a delivery body should not occur until these foundational concerns are addressed.

These overarching concerns are centred around the following points of the consultation:

##### **a) Funding**

The impact assessments for Ofgem intervention range between October 2012 (Midata), January 2014 (QR), April 2021 (Market Half Hourly Settlements), October 2022 (Pensions – based on 2019 price). These assessments precede recent inflation rises, and therefore a more detailed and updated assessment is necessary before proceeding, as this will be key in determining levels of demand and costs for the

service. It's difficult to move forward with design if the costs and engagement predictions are unknown in current financial environments. Energy UK appreciates that the delivery bodies will likely conduct an additional impact assessment or cost benefit analysis (CBA) once selected, however, members note concern that this will be too late to input any concerns on the selected methods of assessment.

Moreover, suppliers have traditionally provided default funding mechanisms for the rollout of digital initiatives. For example, SEC is primarily funded by suppliers, and initiatives such as Nexus and the smart meter rollout have been supplier-led. Energy UK would urge against any delivery body where suppliers are primarily responsible for the design solution, as well as the ongoing costs for updating and sharing the expanding remits of customer data. As the system is geared toward external users accessing the platforms, there are commercial concerns on these funding structures for data access, and it is essential that any delivery body ensures that the burden of building data sharing infrastructure is shared fairly amongst all users.

As a proposed solution, members have suggested a 'user pays' funding model. This could be as two options: spreading this across those who are actively using the consent solution, or spreading the costs evenly across all user bills. A commercial model should be prioritised to ensure there is incentive for the creation of an engaging customer platform.

#### b) Consent

Gaining consent is an incredibly complex process. Communicating the complexities around how suppliers manage consent to customers in a digestible format, whilst covering all of their legalities, will likely be too difficult for customers to understand. This makes the design 'simple and low friction' difficult to achieve in practice, particularly concerning supplier consent.

One specific example of this is as follows:

- The initial solution was expected to only cover Third Party access to Half-Hourly (HH) consumption data, and not access to this data by the consumer's current energy supplier. It is unclear why this has changed in the latest consultation. Supplier consent for HH data is much more complicated than Third Party consent for HH consumption data. This is particularly the case with the introduction of the new rules surrounding MHHS data for settlement in Elec SLC47, where only some customer groups are required to give explicit consent. Any summary would also need to include other data granularities (such as Daily or Monthly), and would need to explain why that customer may not have the same options as other customers, depending on whether they are New System or Old System (and what that means), and depending on their contract terms (for example if they are on a Time of Use tariff where HH data is essential for billing). The summary would also need to show what purposes the supplier used that HH consumption data for, and where the customer had

choices and where they did not. Rapidly, this would become very complex.

As a proposed solution to this challenge, members have suggested that the platform is used for third parties consent, and it directs the customer to their energy supplier, where suppliers already have the mechanisms in place for customers to gather and manage consent. This will help to keep the platform in line with the 'simple and low friction' principles, whilst allowing customers to manage how their data is shared.

For reference, suppliers already collect data for Priority Service Register (PSR) and sharing with third parties, HH or daily consents for billing, and Mandatory HH/daily consents now for Settlement (new System Customers only under recent SLCs), and consent for usage for apps.

### c) Consultation and Development Process

Some of the references within the design principles suggest that the solution will need to expand further to function. For example, it's suggested that the scope of the solution could be extended "*at the Delivery Body's discretion and will not require another Ofgem consultation*" and that the solution will *'iterate through time of use tariff data, Energy Smart Appliance (ESA) data and further'*. The potential for the scope to increase without consultation is concerning, particularly as members will not be able to provide any input or expertise over the decision outcomes made by the delivery body. It is unclear what the incentives behind the scope expansion would be, and how the funding models would play into this expansion.

The proposed three month design phase is therefore too short for a solution with long-term, high-cost consequences. Energy UK therefore urges Ofgem to ensure the delivery body consults on a secondary design phase of the consumer consent platform, as without industry expertise it will be difficult to create a successful solution which both works for the customer and covers the necessary technical considerations. Allowing industry input into the development process will also help drive out the benefits (and the costs) of the technical solution. The development process should then be subject to a consultation by the delivery body to ensure there is a clear business case for proceeding to delivery based on costs and quantifiable benefits. This will ensure the solution is progressed on accurate demand assumptions.

## **2. Do you have a preference between the centralised, decentralised or hybrid models? Please elaborate.**

Energy UK advocates for a decentralised solution, as a way to keep costs down and reduce the complexity of any system.

However, there has been unclear information over what the difference between a decentralised and hybrid model in the consultation. It's therefore necessary to have a clear understanding of what this looks like in practice before recommending a model.

It is also unclear who the key data actors are, what the process flow for the use of the consent solution is, and how the solution would subsequently interact with the sources of the data for which consent is being sought. This will be particularly crucial as Time of Use Tariff Data (TOUT) is integrated in future use cases, where suppliers will be the source of the data and will need to interact with the solution as an actor, rather than as a consent seeker. Energy UK would urge greater consideration and clarification on this before the solution is decided.

On the concerns around the deletion of data and custodian of data [3.33], the Data Sharing Infrastructure governance should be used as a point of reference in providing clear, accepted, and operational trust frameworks.

Energy UK would strongly urge against a centralised solution.

### **3. Do you consider the security measures referenced in this section, including the access control measures, will meet the requirements of a consent solution holding consumer data? Which additional protections would you recommend?**

There are significant hurdles to be addressed with consumer data, which we had been raised previously in the [Data Sharing in a Digital Future](#) consultation earlier this year. As outlined in question 1, explaining consent in the energy system is incredibly difficult and needs careful consideration to ensure all customers – particularly vulnerable customers – fully understand what services they are consenting to. Without careful design consideration, customers may revoke consent, which will have knock on impacts on service delivery, hampering the rollout of digital infrastructure. Customers fully own their data and have the right to consent. However, describing the technicalities of the energy system may not be possible in a way that is ‘simple and low friction’ as the consultation describes. As mentioned, Energy UK therefore urges additional industry input into the design process before a solution is progressed.

Specific technical concerns around security measures of consumer data include:

- Decisions on how consent can be transferred (for example, on Change of Tenancy or Change of Supplier). This does not seem to have been clarified yet. Specific guidance would be needed on how (for example), consent for data from multiple-occupancy properties would be managed, particularly when not all property occupants have consented to data sharing whilst only property-level data is available. As above, there are similar concerns around how consent changes would align with Change of Tenancies, as this could lead to customer data being shared unintentionally until consent is revoked.
- Similarly, there are questions around who gets to see the data platform. For example, in multiple occupancy households, there are multiple residents, not just the billpayer, who theoretically should gain access to the platform as owners of the data. In rental properties, it would be necessary to clarify whether the landlord can also gain access to the data.
- How a proposed dashboard should function (and how to signal to customers where their protections may differ).

- How consent withdrawal would work and be verifiable (and how quickly any removal of consent is actioned upon). If consent is withdrawn, there are questions around what happens to historic data. If it is kept, this should be clearly communicated to the customer.
- Obtaining customer consent can be challenging for services that are already operational. For organisations that have previously secured consumer consent, this should be carried over into the platform for the exact purpose for which they have gained it, as regaining consent after a service is fully established can be difficult.
- Will there be overlapping consent requests/ introduction of new technologies – will there be resent requests?
- There is an additional burden on suppliers for managing complaints or questions as a result of the platform, as this will be directed to suppliers rather than any other third parties accessing the data. Energy UK understands that the third parties will be accredited, and this accreditation process will be subject to consultation. This understanding should be clearly communicated to industry, given the challenges customers have faced from unregulated third party intermediary brokers.
- How authentication would work (ensuring that a customer is associated with the identified meter point to prevent fraud). The Energy Systems Catapult 'Living Lab' workstream highlighted that users frequently input their MPAN number incorrectly. If consent processes are delayed, this could have a knock on impact on how quickly services can be implemented. There would therefore be questions on what amount of minimum level of service which can be carried out without any consent (for example, if there is no consent, will a smart boiler still be able to function?).
- Additionally, does the need for consent to carry out services pressure a customer into consenting, when they may not want to share their data?
- In the Tariff Interoperability Working Group, there is work ongoing to decide which authentication platform would be best suited, such as OAuth. Energy UK recommends alignment with the outcomes of this workstream to ensure ease and efficiency of the authentication process.
- There may be vulnerabilities of the APIs linked to authentication and authorisation, and as such should be regularly stress tested to ensure they remain secure.
- Energy UK members also note that any changes to switching procedures at an operator/aggregator level may impact the relevance of consumer consent models, given that customers currently need to give consent for a switch request by a 3rd party provider or aggregator (on behalf of the customer).
- Some smaller organisations use intermediary companies to gain consent. If these secondary services are named in the consent platform, a customer may not recognise the name and as such withdraw consent. It is important that the primary company name, which the customer recognises, is listed instead of the intermediary. If there are multiple third parties accessing data, how would these be differentiated to the customer?



- There are business models in place where organisations arrange the consent on behalf of third parties, raising questions about how this would work in the model.
- Further detailed work is required on the modelling of consent. If shared data is combined with other data that a company holds about a customer, this could increase the sensitivity of any data held and so increase risk to customers.
- Ofgem should consider how to ensure that data sharing is only related to uses a customer understands and has actively opted into. This will avoid any risk of customers perceiving any solution as being one that they did not consent to. It is vital for this work that Ofgem has a clear and executable model of consent management that consumers will trust.

Crucially, these considerations must be thought about in consideration with end users, particularly for vulnerable customers. Real life focus groups and use case testing will be essential for a successful delivery.

**4. Do you consider these standards are sufficient parameters to ensure inclusivity, accessibility and interoperability for the consent solution? Which standards would you recommend?**

Energy UK supports the proposed approach and standards outlined.

The design must support high take-up, and the cost-benefit analysis must use a realistic assumptions here informed by comparable sector programmes such as the smart meter rollout.

## **Section 4**

**5. Do you agree with the options assessment conducted by Ofgem? If not, why?**

Members note some concern over the options assessment, and how the three bodies were initially selected. For example, members have noted they would like to see Elexon considered as a delivery body. The option of a tender process has also been suggested.

Additionally, some criteria is significantly more important than others, such as technical expertise and operational capabilities over governance mechanisms. Given the RAG rating is not weighted, it may not represent a fair analysis of the suitability of delivery options available.

**6. Do you agree with Ofgem's minded-to position that RECCo should be selected as the Delivery Body for the consent solution? If not, which of the three proposed organisations should be selected as the Delivery Body for the consent solution, and why?**

Energy UK does not currently have a strong position on the best delivery option. Energy UK would ask that the considerations highlighted in question 1 and 3 are



addressed and communicated to industry before a delivery body is selected. It is essential that the solution, the data flows, and the key actors are clearly defined before appointing a body, as the end-to-end process needs to be fully understood and communicated before proceeding.

As mentioned in response to Question 5, members would also like to see Elexon considered as a delivery body.

Whichever body is decided, Energy UK would highlight that the chosen body should be the body best positioned as the facilitator of customer data sharing.

**7. Do you hold any views as to how the proposed solution should be funded? Please consider the points regarding fairness raised in paragraphs 4.12–4.14 and Ofgem’s duty to consumers when providing your answer.**

As outlined in greater detail in response to Question 1, members have urged against a supplier-funded model, suggesting a user-pays model instead. A user-pays basis will help to incentivise the delivery body to attract users in order to recover the costs from the solution.

Energy UK would urge against a default fee system where the burden is placed solely on suppliers, for a solution which benefits and will be used by all actors in the energy system. This is particularly pertinent given suppliers already have consent mechanisms in place for managing consent. The funding solution should ensure fairness across the energy system, and avoid possible problems as in other supplier-funded initiatives where some participants benefit from but do not contribute to the central system.

Whilst Energy UK do not have strong feelings on who the delivery body should be, in the instance of RECCo, members have raised the following concerns which would need to be addressed:

- RECCo manages the annual budget that suppliers contribute to. However, if Ofgem makes its decision by late 2024 or early 2025, it would coincide with the time when RECCo usually consults on its budget for the upcoming year. Since these consultations may not include the fully costed solutions related to Ofgem's proposals, it creates uncertainty about how those costs will be covered.
- As RECCo is a not-for-profit organisation, their budget for the regulatory year 2025/26 may not be adequate to cover the costs of starting the solution. This includes the period when the body would be expected to start key activities like analysis and development.

Suppliers might bear disproportionate start-up costs before the system is operational. During the transition period (i.e. once the system is set up and costs are being shared among users), there is uncertainty about how these initial start-up costs will be distributed as more users access the system. These ongoing access costs for using the system will likely be lower than the initial start-up costs, which raises concerns about fairness and who pays for the initial service creation.

Whilst these are issues raised using the example of RECCo, which remains a contender for the delivery body, it is likely that similar concerns will be raised for each delivery body. Members therefore believe that until Ofgem have a Cost Benefit Analysis, with fully costed proposals for a future consumer consent and data sharing solution, there should be no decision point to proceed to delivery.

Energy UK asks for clarity and fairness in how the costs for setting up the solution are shared, especially among different stakeholders, before any delivery body is selected.

## **Section 5**

### **8. Do you agree with our position to make sharing consent data with consumers (via the consent solution) an obligation for licensees?**

As outlined in greater detail in response to Question 1 and Question 7, challenges around funding need to be addressed to ensure fairness in delivery.

If there are any future changes to how demand side response service providers (DSRSPs) are licensed, these changes should be aligned and reflected with consent solution funding model.

### **9. Do you consider SLC 0 an appropriate route for implementing these changes, or should Ofgem create a bespoke licence condition?**

It has been suggested that an additional licence condition should be used for these changes. SLC 0 serves as a general license condition, and it should not impose a mandatory obligation on suppliers to share data with third parties. This requirement should be clearly outlined by Ofgem, allowing suppliers to reference the regulation when addressing customer inquiries or complaints.

Crucially, as outlined in greater detail in response to Question 1 and Question 7, the challenges around funding need to be thoroughly addressed to ensure fairness of the solution delivery.