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“Reviewing the Supplier Guaranteed Standards of Performance” – So Energy Response

Dear Steve,

So Energy is a leading energy supplier providing great value renewable electricity to homes across Great Britain. We supply 300,000 customers as one of the last challenger suppliers left in the market and one that is backed by ESB Group’s resources and expertise, So Energy is able to provide a unique view of customer service and standards of performance in today’s market.

Guaranteed Standards of Performance (GSOPs) are designed to incentivise suppliers to deliver certain outcomes for consumers, thereby improving the overall consumer experience. Good GSOPs adhere to the following principles:

1. They are achievable in every circumstance – suppliers should be in the position to make a minimal number of GSOPs payments once they have the appropriate systems and processes in place. If suppliers are making a high number of GSOP payments because the GSOP is often impossible to meet, it is not a good GSOP. In the context of the price cap, ‘achievable’ includes ensuring that there is sufficient funding available to invest in minimising the number of GSOPs, for example, funding premature removal charges on meters in order to meet meter reliability GSOPs.
2. They are unambiguous – suppliers and consumers should both be clear about whether a GSOP has been met in each circumstance of the case. To allow for anything else will create inconsistency of application and unmet expectations.
3. They are resistant to gaming – consumers should not be able to take actions that can provide them with GSOP payments for little effort on their part.

Whatever principles or criteria are chosen by Ofgem the GSOP needs to meet all of them. If Ofgem only plans to meet 5 of 9 principles with the principles to be prioritised and de-prioritised changing each time, it renders the regulatory framework useless. Ofgem needs to focus in on what’s really important and guarantee the GSOP always delivers in this area. For So Energy, that is keeping bills low, as we have a debt and affordability crisis in GB. With that in mind we suggest that GSOPs are framed in the following manner:

*“GSOPs aim to minimise specific undesirable consumer outcomes using a financial incentive.”*

The alternative is that GSOP morphs into a ‘Delay Repay’ style compensation scheme in which the suppliers paying compensation have little control over the relevant outcomes. GSOPs must not become an engine for driving up bills.

**Q1. Do you have any views on how the GSOP should be used to deliver good consumer outcomes as part of our wider regulatory toolbox?**

It is important to have a clear understanding of what a GSOP does. GSOPs incentivise suppliers to take whatever action is necessary to minimise the payment of GSOPs. That is it.

There is no direct relationship between GSOPs and good consumer outcomes. They can deliver bad outcomes or good outcomes, depending on how a GSOP is designed. We have set out our suggested design principles in our response to Question 3. It is imperative that Ofgem does the following:

- Establish a clear set of design principles against which any draft GSOP will be judged.
- Perform regular 'go/no-go' assessments of draft GSOPs against these design principles. Do not 'go' unless they meet the design principles.

Ofgem's current policy development process does not enable this. Taking smart GSOPs as an example, it commenced with a press release stating there will be GSOPs and the work was passed to a policy team to deliver a set of GSOPs. Once the announcement was made, the policy team was under pressure to deliver *something*. Then, as issues were discovered with the GSOP proposals, the policy team was incentivised to compromise the integrity of the draft GSOPs in order to get them over the line. The delivery of new GSOPs was the end in itself. As of the time of drafting, we anticipate the draft smart meter GSOPs will poor consumer outcomes.

We recommend that Ofgem conduct workshops with suppliers in order to explore the feasibility of GSOPs in a policy area before any formal announcement is made or any formal consultation is issued. With this approach, Ofgem will not put itself under pressure to deliver compromised GSOPs.

**Q2. Do you have any comments on our proposed objectives for the GSOP mechanism?**

There are too many objectives. Ofgem is trying to make GSOPs do too many different things. This will lead to poorly designed GSOPs as everyone will have a different concept of what GSOPs are supposed to achieve. Ultimately this will undermine trust in GSOPs and regulation more widely due to inconsistent design and application of the rules.

There should be a single objective. We suggest:

*"GSOPs aim to minimise specific undesirable consumer outcomes using a financial incentive."*

Note the focus of this objective, it is not to make payments to customers but to use a financial incentive to minimise undesirable outcomes. In practise this should mean that GSOPs are almost always met, thereby minimising undesirable outcomes, and that GSOP payments are rare. Large numbers of GSOP payments raise bills for everyone, which is the most undesirable outcome.

Ofgem's proposed objectives conflict between each other. They also conflict with Ofgem's draft criteria. To provide a few examples:

- “Building consumer confidence, trust and engagement” is an objective and “automatic compensation directly to consumers when they do experience poor service” is also an objective. However, we know that the biggest driver of trust in the market is price. The more compensation that’s handed out, the higher the price will be. If automatic compensation is defined as a GSOP objective, it will give rise to GSOPs the supplier is not in a position to avoid. GSOP payments will rise dramatically and bills will also rise. Confidence and trust will fall.
- Similarly, “automatic compensation directly to consumers when they do experience poor service” and the design criterion “Suppliers (...) should have the ability to improve the service” have compatibility issues. Poor customer experience can happen for reasons beyond the control of the supplier. A parallel can be drawn with railways, and ‘Delay Repay’. Most delays are the fault of Network Rail rather than the Rail Franchisees who run the trains. There is little the Franchisee can do to prevent delays. Therefore, Delay Repay is a system of taxes and payments that go from rail users in general to those who claim for a delay in their travel. Train tickets in the UK are among the most expensive in Europe. Applying a similar principle to GSOPs will deliver a similar outcome of higher energy bills. GSOPs should not work in this way. Furthermore, a poorly drafted GSOP may place obligations on suppliers to spend a great deal of money avoiding GSOPs in matters that have little relevance to consumers. For example, the proposed smart meter reliability GSOP could have suppliers spending £1bn replacing smart meters when, in many cases, the customer has no intention of taking smart products and services – this is a really poor use of billpayer money. Ofgem must prioritise keeping bills low when designing GSOPs.

**Q3. Do you have any comments on our proposed criteria for the design of any new Guaranteed Standards, or how we intend to use the criteria?**

There is nothing wrong with any of the individual criteria but when taken as a package:

- There are too many of them and they conflict with one and other. We would expect that, given the choice between meeting only some of these criteria and introducing no GSOP at all, Ofgem will choose to only meet some of the criteria.
- Each criterion is given equal weighting, or the weighting of each criterion will be down to whoever is writing a given rule.

Therefore, the criteria as a package, will lead to arbitrary and inconsistent GSOPs. Ofgem needs to streamline these criteria and ensure that *all of them* are met as a condition of implementation. No GSOP should be implemented unless all of the design criteria are met. This will provide accountability and rigor in designing future GSOPs.

Despite a lengthy list of criteria, no mention is made of keeping bills as low as possible for billpayers in general by ensuring suppliers can always take reasonable, cost-effective, action to minimise the payment of GSOPs and by ensuring customers cannot ‘game the system’ by actively trying to extract GSOP payments from their suppliers. This is crucial given the broader affordability challenges faced by billpayers. GSOPs should minimise specific undesirable consumer outcomes without acting as an engine for driving up bills.

We believe our suggested design principles, set out at the beginning of our response, represent a simpler set of design criteria that could be used as an alternative to the Ofgem criteria. Ofgem could also consider categorising their criteria into primary criteria, that must be met, and secondary criteria, which should be given proper regard.

One design issue has arisen in the drafting of the smart GSOPs that we wish to highlight. GSOPs need to have a clear trigger point. For a GSOP to work well, the supplier needs to be able to recognise that they are in a GSOP situation so that a GSOP-specific process can be followed to its conclusion. The way one of the smart GSOPs was originally drafted, it wouldn't be clear whether an email from a customer represented the beginning of a GSOP or would be just a normal email. Without a clear trigger, it might be unclear whether a GSOP was ever payable. This is perhaps something that ought to be incorporated into 'ease of understanding and administration'.

Ofgem has not set out a process they will follow in developing new GSOPs and we believe this is a big mistake. Based on our experience with both the smart metering GSOPs and the earlier switching GSOPs there is clearly a right way and a wrong way to go about developing GSOPs.

**Q4. How effective is the current GSOP framework and individual standards in delivering good consumer outcomes? Please provide evidence where possible.**

It is difficult for us to judge in terms of the outcomes delivered by the market as a whole, but we would make the following observations from a So Energy perspective:

- GSOPs are more difficult to interpret and understand than regulations in general.
  - The secondary legislation in which they are situated is difficult to follow, with some exceptions within the body of the GSOP, more GSOP specific exemptions listed specifically in section 9 and general exemptions also listed in section 9 that may or may not be relevant to a given GSOP.
  - The GSOPs themselves can tie people up in knots. It can be difficult to interpret when the clock starts and finishes on a timed GSOP. We have seen Ofgem applying drafting changes to the GSOPs incorrectly in the context of smart GSOPs, because they did not understand the existing GSOPs.
- GSOPs will prompt suppliers to design processes that minimise the payment of GSOPs above all other things. If an action can be taken that *may* disappoint a customer but *will* result in the GSOP being met (and no GSOP payment), the supplier will take that action every time. GSOP processes are necessarily ridged in nature – allowing for agents to deviate from the process, even if they believe it is helpful for the customer, risks GSOPs not being met or GSOPs not being recorded in the first place. Therefore, from a consumer's perspective, GSOPs have the potential to create a very 'computer says no' relationship with the customer. The extent to which this is the case depends on how well the GSOP in question is designed. We are concerned that if Ofgem pursues more and more GSOPs, the relationship between suppliers and their customers will grow more and more dysfunctional, with suppliers guided by GSOPs rather than the needs of their customers.
- GSOPs are, necessarily, far more prescriptive than traditional licence conditions. That means they take much longer to develop. Ofgem should not assume any of this will be easy. Our strong recommendation is, where Ofgem is considering introducing a GSOP it arranges a series of workshops with suppliers first to bottom out the issues and exceptions and then, when these are all known, take a decision on whether a GSOP is useful and practicable and launch a public consultation.
- When they are designed well, practically zero GSOPs are paid out by suppliers who have their systems and processes in order. After all, the goal is to ensure the GSOP is met. It might be intuitive to look at the GSOPs that pay out the most money and consider these the most 'successful', but these are actually the GSOPs that work least well and, if any

existing GSOPs were to be reviewed, efforts should be concentrated in understanding why these GSOPs aren't being met more often.

**Q5. Do you have any views on what would determine if a GSOP or a licence condition is the best tool to improve supplier performance?**

Ofgem is about to pivot licence conditions towards an outcomes-based regime. This would appear to offer a far greater chance of delivering the outcomes Ofgem wants. Our recommendation is to focus on this, define the outcomes Ofgem wants to see, and reform the licence. Then, Ofgem can monitor these outcomes and consider GSOPs where the outcomes aren't being met.

The reason for this recommended sequencing of events is because the outcomes a GSOP will actually deliver can be difficult to predict. GSOPs will prompt suppliers to design processes that minimise the payment of GSOPs above all other things. If an action can be taken that may disappoint a customer but will result in the GSOP being met (and no GSOP payment), the supplier will take that action every time. GSOP processes are necessarily ridged in nature – allowing for agents to deviate from the process, even if they think it is helpful for the customer, risks GSOPs not being met or GSOPs not being recorded in the first place. Therefore, from a consumer's perspective, GSOPs have the potential to create a very 'computer says no' relationship with the customer. The extent to which this is the case depends on how well the GSOP in question is designed. We are concerned that if Ofgem pursues more and more GSOPs, the relationship between suppliers and their customers will grow more and more dysfunctional with suppliers guided by GSOPs rather than the needs of their customers.

We also recommend focussing on outcomes-based regulation first because GSOPs are tricky to design and will take longer to deliver. See our response to Q4 for further detail.

**Q6. Are there any supplier service areas where it would be appropriate for us to explore new GSOPs, or move an existing licence condition into the GSOP framework?**

As stated in our response to question 5, we would focus on trying to deliver the outcomes Ofgem wants through outcomes-based regulation first. GSOPs should only be used where there are difficulties delivering the outcomes Ofgem wants.

**Q7. Should any of the current GSOPs be removed, or replaced with a licence condition to better achieve its policy aim?**

When they are designed well, practically zero GSOPs are paid out by suppliers who have their systems and processes in order. After all, the goal is to ensure the GSOP is met. It might be intuitive to look at the GSOPs that pay out the most money and consider these the most 'successful', but these are actually the GSOPs that work least well and, if any GSOPs were to be reviewed, efforts should be concentrated in understanding why these GSOPs aren't being met more often.

Ofgem should already have the data on what GSOPs are working well through its GSOP RFIs.

The outcome of any review may be an amended GSOP, its replacement with a licence condition or further guidance around the application of the GSOP.

**Q8. Should we consider expanding the GSOP mechanism to cover non-domestic customers, or a sub-section of non-domestic customers? If so, which existing or potential future standards would be most appropriate?**

We only supply domestic customers.

**Q9. Do you have any views on what the underlying rationale for the payment level and mechanism should be to best achieve the GSOP objectives?**

Higher payments equals higher energy bills for everyone. The government has a stated ambition to reduce bills by £300 by the end of parliament. There is an underlying affordability crisis, and debt in the industry continues to climb month after month, with no end in sight. Ofgem does not mention this anywhere when considering the level of payments.

Ofgem needs to place a higher priority on reducing bills when considering the future of GSOPs. It cannot have one silo of the organisation pushing up bills while other siloes in the organisation are trying to keep bills low and another silo tries to make the market investable. That is a dysfunctional approach to regulation.

As we have looked back through the various iterations of GSOP, we have been unable to find any scientific rationale behind why a payment was set at a certain level. If it ever existed, it's been lost to time. The important thing is that, when a customer receives the payment that they think it is a fair amount.

With that in mind, we provide the following feedback on the options:

- Singular increase is our preference as it is the most likely to keep bills down.
- Variable level based on potential harm sounds like a scientific approach but if the analysis showed that £40 is too high, we are certain Ofgem would adjust the methodology until they do not have to convince the general public that cutting the existing level of GSOP payment is fair. On that basis, 'potential harm' is certain to put upward pressure on bills and therefore it should be discounted.
- Similar to above, we do not believe Ofgem would use payments based on customer type to lower the level of any existing GSOPs, therefore it puts upwards pressure on bills and should be discounted. In addition to this, there are no definitive measures to separate one customer type from another. There are only proxies for characteristics like vulnerability, for example.
- Repeat payments increase the risk of a poorly designed GSOPs delivering worse outcomes for consumers, in terms of higher bills. We note that Ofgem has had to delay the implementation of the smart metering GSOP they refer to in the call for input. Repeat payments ought to be treated with a great deal of caution.
- If inflation-linked changes had been in place during the energy crisis it would have pushed the price cap beyond the record highs we witnessed. Ofgem has a duty to keep bills as low as possible, especially in the current environment. Inflation-linked changes would be reckless.

**Q10. Do you have any views on specific changes to the payment mechanism we should consider, including the examples included in this paper?**



As stated in our response to Question 9, Ofgem should consider the need to keep bills at a manageable level above all other things. The level of GSOP payment has recently been reviewed and increased. No further increases should be contemplated at this time.

**Q11. Are there any issues we should consider with introducing repeat payments for ongoing breaches?**

Repeat payments increase the risk of a poorly designed GSOPs delivering worse outcomes for consumers in terms of higher bills. We note that Ofgem has had to delay the implementation of the smart metering GSOP they refer to in the call for input. Repeat payments ought to be treated with a great deal of caution.

**Q12. Are there any issues we should consider with introducing variable payment levels for different consumer groups or severity?**

Do not do this.

Every time this suggestion arises, the same conversation occurs where it is concluded that the data to distinguish between these types of customers does not exist. PSR is often suggested as a proxy. However, to link PSR to financial rewards would undermine the purpose of the PSR around the prioritisation of customers when there is a power outage. Inevitably, every time, the suggestion is dropped as unworkable.

When determining the level of payment for each customer type, we expect that Ofgem would attempt to adopt some sort of scientific approach but if the analysis showed that £40 is too high for some customers, we are certain Ofgem would adjust the methodology until they do not have to convince the general public that cutting the existing level of GSOP payment is fair. On that basis, this approach is certain to put upward pressure on bills and therefore it should be discounted.

**Q13. Are there any specific changes to the current set of exemptions that we should consider?**

When they are designed well, practically zero GSOPs are paid out by suppliers who have their systems and processes in order. After all, the goal is to ensure the GSOP is met. It might be intuitive to look at the GSOPs that pay out the most money and consider these the most 'successful', but these are actually the GSOPs that work least well and, if any GSOPs were to be reviewed, efforts should be concentrated in understanding why these GSOPs aren't being met more often.

Ofgem should already have the data on what GSOPs are working well through its GSOP RFIs.

The outcome of any review may be an amended GSOP, its replacement with a licence condition or further guidance around the application of the GSOP.

**Q14. Are there any other factors not clearly outlined you think need to be considered?**

All of Ofgem's focus in this call for input seems to be on increasing the cost of the GSOP framework with little regard for what this will do for energy bills. We are in an affordability crisis. This review should seek to lower energy bills, not raise them.

**Q15. Are there any improvements we can make to the way we collect data from suppliers specifically on their compliance with the GSOP?**

Ofgem should be mindful of the burden of existing data collection and their past commitments to lower the burden they place on suppliers. To date, Ofgem has been all talk, no action on lowering the data collection burden. The level of data collection today is equivalent to the peak of the energy crisis.

**Q16. Are there any additional risks that we should consider when exploring our approach to monitoring and ensuring supplier compliance with the GSOP?**

The risk of bills rising as a consequence of more GSOPs and poorly constructed GSOPs has not been considered. This should be front and centre of Ofgem's thinking, given the affordability and debt crisis the industry faces.

**Q17. Is there a need for any supporting guidance, either aimed at suppliers or consumers, to improve the effectiveness of the GSOP?**

When they are designed well, practically zero GSOPs are paid out by suppliers who have their systems and processes in order. After all, the goal is to ensure the GSOP is met. It might be intuitive to look at the GSOPs that pay out the most money and consider these the most 'successful', but these are actually the GSOPs that work least well and, if any GSOPs were to be reviewed, efforts should be concentrated in understanding why these GSOPs aren't being met more often.

Ofgem should already have the data on what GSOPs are working well through its GSOP RFIs.

The outcome of any review may be an amended GSOP, its replacement with a licence condition or further guidance around the application of the GSOP.

**Q18. Is it important that consumers are aware of GSOPs? Why?**

No. In a GSOP that works well, they simply observe the outcome the GSOP is designed to deliver, being met. Where it isn't met, so long as they get the payment, they're compensated. GSOPs are not like delay-repay in the rail sector, where a customer must apply for compensation.

Ofgem needs to be conscious that most people have relatively few minutes in the day to think about energy at all. The list of information provision requirements set out by Ofgem is already too long, meaning that less essential information is crowding out more essential information. In the narrow context of GSOPs, more information might solve a perceived problem, but it will come at the cost of less awareness elsewhere. Ofgem needs to consider the broader information provision context.

**Q19. Are there any actions that Ofgem or suppliers should take to improve consumer awareness of the Guaranteed Standards?**

If the GSOPs work well, the customers will receive good outcomes and be pleased with the performance of their supplier. There should be no need to be aware that the GSOP exists.



Yours Sincerely,

Paul Fuller  
Head of Regulation

