

Industry Codes Workgroup
Terms of Reference

Background

Following consultation in February 2005, Ofgem have committed to conducting a comprehensive review of the standard conditions of the gas and electricity supply licences. A Steering Group has been established to provide recommendations to Ofgem on the role and scope of the supply standard licence conditions (SLCs) and whether the individual obligations set out in these SLCs should be retained, removed or redrafted.

The Steering Group has commissioned the Industry Codes workgroup to tackle specific policy areas. The terms of reference for this workgroup will be published on the Ofgem website. Ofgem anticipates that membership of the workgroups will be determined by the topic for that workgroup and that subject specialists will be nominated by Steering Group members or other interested parties.

At this stage, it is expected that the workgroup will meet monthly. The first meeting is scheduled for 20 October 2005 and the Steering Group has asked that the workgroup present them with a draft final report by April 2006 and a final report by May 2006. The purpose of the workgroup's report is to allow the Steering Group to provide recommendations on main policy areas to Ofgem by May 2006. The workgroup should provide the Steering Group with regular written updates on progress.

Objective

Workgroups are expected to operate broadly as follows:

- the workgroup will be chaired by Ofgem. Representatives of industry parties, energywatch and other customer representatives will be invited to attend. Ofgem will act as secretariat to the groups
- a list of the SLCs that the workgroup will be asked to consider will be agreed by the Steering Group and appended to these terms of reference
- the Steering Group will establish a timetable for delivery of recommendations to the Steering Group for subsequent presentation to Ofgem
- the workgroup will present a draft final recommendations report to the Steering Group by April 2006 and a final report by May 2006
- the final report to the Steering Group should take into account the 5 principles of the SLR published by Ofgem in the SLR Way Forward document, August 2005 (appended to this document)

- the workgroup will request guidance where necessary from the Steering Group
- the workgroup will provide regular written updates to the Steering Group on progress and outstanding areas of concern
- where appropriate the workgroup will present its recommendations in accordance with the principles of an Impact Assessment
- where policy proposals are anticipated to impact on the considerations of other workgroups, then this should be flagged to the Steering Group at the earliest opportunity, and
- the workgroup shall consider and document in the final report to the Steering Group any consequential impacts of the policy proposals on other licence types and other legislation.

The workgroup and Steering Group will not be decision making bodies. They will not replace the standard consultation arrangements that Ofgem employs when proposing changes to licence conditions which includes licence holders voting on proposed changes through the established collective licence modification arrangements. This process includes publishing notice of proposed licence modifications in such a manner as to bring it to the attention of interested parties and consideration of any representations or objections made in accordance with Section 11A of the Electricity Act 1989 and Section 23 of the Gas Act 1986.

In the event that a specific workgroup cannot reach consensus on whether an obligation should be retained, removed or redrafted the workgroup's final report to the Steering Group will be presented so as to reflect the views of the workgroup members. The Steering Group and Ofgem will then take forward the issues for further consideration, with the issues ultimately referred to Ofgem, detailing the relevant arguments, in the event that the Steering Group also fails to reach a consensus.

Scope

The scope of the Industry Codes workgroup will centre on the obligations set out in SLCs in Appendix 1 to this paper are fit for purpose. The workgroup will need to consider whether the obligations included in each of the stated SLCs should be retained, removed or redrafted. The workgroup may also consider whether additional supplier obligations, under the title of each SLC, are appropriate in a competitive market.

The Steering Group have considered the broad policy areas to be tackled by the workgroup and agreed that the scope for the Industry Codes group should be restricted such that the role of the industry code should not be considered. Compliance arrangements for each code were agreed to be in scope for the workgroup.

It will not include a general review of the standard conditions of other licence types although it is recognised that some consideration of these obligations may be required where there is a relationship with the supply licence obligations.

The scope of the Review will need to include consideration of other legislation that impacts on suppliers in their function as suppliers of gas and electricity to customers.

Workgroup Deliverables and Timescale

The Workgroup will:

- provide a draft report to the Steering Group by April 2006 and a final report by May 2006 detailing their analysis of whether the obligations on suppliers as set out in Appendix 1 are relevant in a competitive market. In particular, views are required on whether each obligation should be removed, retained or redrafted. Where consensus can not be achieved the relevant arguments should be presented, and
- provide regular updates at Steering Group meetings on progress, requesting guidance where necessary and in particular setting out issues where consensus is likely to be problematic.

Overall Deliverables and Timescale

The high level deliverables and timescale for the SLR, which the workgroup will contribute towards, are as follows:

- Steering Group to provide an initial report to Ofgem by May 2006, informed by the output of the workgroups and setting out initial views on the main policy proposals for changes to the SLCs
- Ofgem to consult on initial view on main policy proposals for changes to the SLCs in June 2006
- Ofgem consult on legal text for amending SLCs November 2006
- Ofgem issues final decision document and proposals for collective licence modification process in November 2006, and
- Implementation of revised SLCs in June 2007 (depending on impacts on industry systems and procedures).

Membership

Membership of the workgroup will be open to suppliers, other licensees, energywatch and other customer representatives. Ofgem expects that where a party notifies Ofgem that they wish to be a member of the workgroup, they do so on the basis that they are making a commitment to fully participate for the duration of the workgroup.

Members of the workgroup are as follows:

Tahir Majid	Centrica (alternate)
Alison Beard	Centrica
Alex Travell	e.on
Roger Barnard	EDF Energy
Ann Neate	EDF Energy

Dorcas Batstone	Elexon
Abid Sheikh	energywatch
Mark Watson	ERA
Chris Bennett	NGT
Penny Garner	NGT
Laurence Poel	Npower (alternate)
Paul Finch	npower
Nigel Nash	Ofgem
Andrew Wallace	Ofgem
Ian Anthony	Ofgem (chair)
Nick Rubin	Ofgem (secretariat)
Alex McKinnon	Scottish Power
Rachel Chalmers	SSE

Appendix 1

SLC obligations for consideration by workgroup

Electricity

Section/Condition	Title of section/condition	Brief explanation of the licence condition
Condition 5	Compliance with the Grid Codes	Licensee must comply with every Grid Code as far as applicable to it, although the Authority can issue a direction that parts of the Code do not apply.
Condition 6	Compliance with Distribution Codes	Licensee must comply with every Distribution Code as far as applicable to it, although the Authority can issue a direction that parts of the Code do not apply (NB this is not the same as compliance with a DUoSA – there is no SLC for this).
Condition 8	Settlement Agreement for Scotland	If the licensee supplied electricity before the introduction of BETTA, it must comply with the SAS.
Condition 9	Compliance with CUSC	Licensee must comply with CUSC.
Condition 10	Balancing and Settlement Code and NETA Implementation	Licensee must comply with BSC and the NETA implementation scheme.
Condition 11	Change Co-ordination for BSC	Licensee must not prevent the amendment of other documents that are required as a consequence of amendments of the BSC.
Condition 20	The Master Registration Agreement	Must comply with MRA.
Condition 31 B	BETTA Run-off arrangements	Sign up to and comply with a BETTA Run-off Scheme

Gas

Section/Condition	Title of section/condition	Brief explanation of the licence condition
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Condition 34A	The Supply Point Administration Agreement	Licensee must be a party to, and comply with, the Supply Point Administration Agreement
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Appendix 2 – SLR Principles

This appendix sets out the 5 principles of the SLR published by Ofgem in the SLR Way Forward Document, August 2005.

Principle 1

A licence condition or self-regulation (such as an industry wide Code of Practice) is only necessary where there is a clear need for additional protection for the particular circumstances of gas and/or electricity customers (or specific groups of them), over and above that provided by general consumer protection legislation.

Principle 2

Notwithstanding principle 1, given the essential nature of gas and electricity, there is likely to be a continuing need to protect vulnerable customers by licence conditions and/or self-regulation.

Principle 3

Licence conditions that relate to compliance with industry codes and agreements are only likely to be necessary if they do not themselves contain adequate sanctions for suppliers who breach them.

Principle 4

Licence conditions that are considered necessary will be clearly drafted and will provide a flexible framework within which the maturing competitive market can evolve.

Principle 5

Licence conditions should not restrict suppliers from differentiating themselves in the competitive market and be drafted in a way that will allow suppliers to implement any necessary changes at their own rate without having to move at the pace of the slowest. This means that suppliers who are able to comply quickly with the new SLCs may be able to gain a competitive advantage over those that remain subject to the current SLCs.