

energywatch, gas transporters,
gas suppliers, customers and
their representatives, and any
other interested parties

Direct Dial: 020 7901 7046
Email: Joanna.Whittington@ofgem.gov.uk

Date: 17 January 2008

Dear Colleague

Amendment to the Gas (Standards of Performance) Regulations 2005

1. Introduction

Ofgem is proposing to introduce revised standards of performance in individual cases ("guaranteed" standards) that will apply to gas transporters (GTs) from 1 April 2008. The main changes that we propose are:

- to introduce guaranteed standards for responding to customer complaints and notifying customers of planned interruptions;
- to tighten the guaranteed standards for reinstatement of customers' premises to 5 days;
- to revise the guaranteed standard for supply restoration to include smaller non-domestic customers and compensation for third-party damage and water ingress incidents; and
- to clarify the mechanism by which customers receive compensation when they are interrupted as a result of a failure on a network other than the network that they are connected to.

Ofgem is proposing to retain the existing standards for gas suppliers. The revised standards for GTs will be set out in a new Statutory Instrument that amends the Gas (Standards of Performance) Regulations 2005.

2. Process

The policy behind the proposals to revise the standards has been consulted on as part of the gas distribution price control review. Our process has included issuing consultation documents and considering responses; commissioning customer research and considering the results of the research;¹ establishing a quality of service working group and publishing draft and final impact assessments.

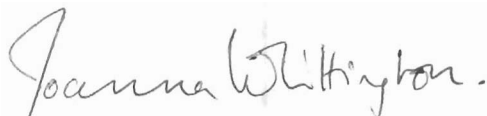
Annex 1 of this letter summarises the proposed arrangements, the key issues that have been raised with our proposals and the reasons for our proposed changes. Annex 2 sets out the timetable for implementation of the revised standards.

¹ This research satisfies the requirement under section 33BAA(1)(a) of the Gas Act 1986 (as amended) to undertake appropriate research prior to making any changes to the guaranteed and overall standards of performance. Details regarding the research and its key findings have been published in a separate report. See Gas Distribution Price Control Customer Research Final Report (ref 126/07).

We have also published today the statutory consultation under section 33BAA of the Gas Act 1986 (as amended). This consultation includes, as annexes, both a marked-up version of the existing regulations (Annex A) and the draft Gas (Standards of Performance) (Amendment) Regulations 2008 (Annex B).

Any representations on the proposals contained in this letter must be made by 14 February 2008. They should be sent to Ayesha Uvais, who can be contacted on 020 7901 7307 or by email at ayesha.uvais@ofgem.gov.uk

Yours sincerely,

A handwritten signature in black ink that reads "Joanna Whittington". The signature is written in a cursive style with a large initial 'J'.

Joanna Whittington
Director, Gas Distribution

Annex 1 – Summary of the proposed arrangements and reasons for proposed changes

A1.1. The Gas Act 1986 (as amended) empowers the Authority to make regulations prescribing standards of performance in individual cases for gas transporters (“guaranteed standards of performance” (GSOPs)), with the consent of the Secretary of State. GSOPs set performance levels that must be met in each individual case. If a Gas Distribution Network (GDN) or Independent Gas Transporter (IGT) fails to provide the level of service required then it must make a payment or payments to the customer affected, subject to certain exemptions.

A1.2. Table A1 summarises the GSOPs following the implementation of our proposed changes. The key changes, and our reasons for making them, are discussed below. The standards are subject to certain exemptions which are set out in the regulations and explained in our accompanying revised guidance document.²

Table A1 Proposed guaranteed standards of performance for gas transporters

No	Standard	Definition	Payment
GS1	Restoring customers’ supplies after an unplanned interruption (Regulation 7)	<p>If a GT fails to restore customers’ supplies within 24 hours following unplanned interruptions on its network, it must make a fixed compensation payment to the customer affected. Further compensation will be paid for each additional period of 24 hours until the customer’s supply is restored.</p> <p>If the interruption is caused by another GT, the other GT is required to make the payment either to the GT to whose network the customer is connected or to the customer directly.</p> <p>Specific exemptions include:</p> <ul style="list-style-type: none"> ▪ If the event was caused by an act or default of the customer who would otherwise be due payment or caused more than 30,000 customers to be affected ▪ If the event was caused by severe weather or other exceptional circumstances beyond the control of the GT and it had taken all reasonable steps to prevent the circumstances from occurring and from causing the interruption <p>NB – compensation arrangements for larger and interruptible customers (where annual consumption exceeds 73,200kWhs) are included in the Uniform Network Code (UNC).</p>	<p>£30 (domestic)</p> <p>£50 (small non-domestic)</p> <p>Cap per customer of £1,000</p>
GS2	Reinstatement of customers’ premises	<p>If a GT fails to reinstate a customer’s premises on completion of GT initiated work to re-lay service pipes on a customer’s premises within 5 working days, it must make a fixed compensation payment to the customer affected. Further compensation will be paid for each</p>	<p>£50 (domestic)</p> <p>£100 (non-domestic)</p>

² Guidance for reporting on Standards of Performance and Standard Special Licence Condition D10, November 2005.

No	Standard	Definition	Payment								
	(Regulation 8)	additional period of 5 working days until the premises are reinstated. Specific exemptions include: <ul style="list-style-type: none"> ▪ If the work is initiated by the customer ▪ If the customer’s own action (or a person under the customer’s control) led to the work being required 									
GS3	Provision of alternative heating and cooking facilities (Regulation 9)	<p>For the types of interruptions specified below, where a GT reasonably expects the gas supply to a priority customer’s premises will be discontinued for longer than 24 hours, the GT shall provide alternative heating and cooking facilities within the timeframe specified below:</p> <table border="1" data-bbox="566 563 1836 766"> <thead> <tr> <th data-bbox="566 563 1400 614">Interruption type</th> <th data-bbox="1400 563 1836 614">Timeframe</th> </tr> </thead> <tbody> <tr> <td data-bbox="566 614 1400 665">Planned interruption</td> <td data-bbox="1400 614 1836 665">4 hours</td> </tr> <tr> <td data-bbox="566 665 1400 716">Unplanned interruption (less than 250 customers affected)</td> <td data-bbox="1400 665 1836 716">4 hours</td> </tr> <tr> <td data-bbox="566 716 1400 766">Unplanned interruption (250 or more customers affected)</td> <td data-bbox="1400 716 1836 766">8 hours</td> </tr> </tbody> </table> <p>If a GT fails to achieve this, it must, on receipt of a qualifying claim from a customer, make a fixed compensation payment to that customer.</p> <p>The period from 8.00 p.m. to 8.00 a.m. shall be ignored when calculating the period that the supply of gas is discontinued for purposes of paying compensation.</p> <p>Specific exemptions include:</p> <ul style="list-style-type: none"> ▪ if the customer already had equivalent alternative heating or cooking facilities. ▪ if the customer declined alternative cooking or heating facilities offered. ▪ if the customer does not claim compensation within three months. 	Interruption type	Timeframe	Planned interruption	4 hours	Unplanned interruption (less than 250 customers affected)	4 hours	Unplanned interruption (250 or more customers affected)	8 hours	£24
Interruption type	Timeframe										
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GS4, GS5 & GS6	Provision of connection quotations (Regulation 10(3)(a) & (b))	<p>For each of the types of connections specified below, GTs shall provide a quotation for providing a new or altering an existing connection within the specified timeframe. Where a GT fails to achieve this, a fixed payment shall be made in respect of the initial failure and each additional day during which the failure continues.</p> <table border="1" data-bbox="573 355 1793 555"> <thead> <tr> <th>Quotation type</th> <th>Time scale</th> <th>Payment</th> <th>Cap</th> </tr> </thead> <tbody> <tr> <td>Standard</td> <td>6 working days</td> <td>£10</td> <td>Lesser of £250 or contract sum</td> </tr> <tr> <td>Non std ≤275kWh</td> <td>11 working days</td> <td>£10</td> <td>Lesser of £250 or contract sum</td> </tr> <tr> <td>Non std >275kWh</td> <td>21 working days</td> <td>£20</td> <td>Lesser of £500 or contract sum</td> </tr> </tbody> </table> <p>If a quotation is found to be inaccurate it shall be treated as if it was not provided on time.</p>	Quotation type	Time scale	Payment	Cap	Standard	6 working days	£10	Lesser of £250 or contract sum	Non std ≤275kWh	11 working days	£10	Lesser of £250 or contract sum	Non std >275kWh	21 working days	£20	Lesser of £500 or contract sum	See table
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GS7	Accuracy of quotations (Regulation 10(3)(c))	Where a customer challenges a quotation under the GT's published accuracy scheme and the quotation is found to be inaccurate the GT shall refund any overcharge that has been made.	N/A																
GS8	Response to land enquiries (Regulation 10(3)(d))	A GT shall respond to a land enquiry in respect of a new connection or alteration of an existing connection within 5 working days. Where a GT fails to achieve this, a fixed payment will be made in respect of the initial failure and each additional day during which the failure continues.	£40 Cap per customer is £250 up to 275 kWh per hour and £500 for > 275 kWh per hour																
GS9 & GS10	Offering a date for commencement and substantial completion of connection work (Regulation 10(3)(e))	<p>Where a customer has accepted a quotation, the GT shall offer a date for commencement of the work and substantial completion within 20 working days from when the payment became due. Where a GT fails to achieve this, a fixed payment will be made in respect of the initial failure and each additional day during which the failure continues.</p> <table border="1" data-bbox="573 1206 1499 1358"> <thead> <tr> <th>Connection work</th> <th>Payment</th> <th>Cap</th> </tr> </thead> <tbody> <tr> <td>≤275kWh</td> <td>£20</td> <td>Lesser of £250 or contract sum</td> </tr> <tr> <td>>275kWh</td> <td>£40</td> <td>Lesser of £500 or contract sum</td> </tr> </tbody> </table>	Connection work	Payment	Cap	≤275kWh	£20	Lesser of £250 or contract sum	>275kWh	£40	Lesser of £500 or contract sum	See table							
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GS11	Completion of the work on the agreed date (Regulation 10(3)(f))	<p>Where a GT fails to substantially complete a connection on the date agreed with the customer, a payment will be made in respect of the initial failure and each additional day during which the failure continues.</p> <table border="1" data-bbox="566 288 1624 655"> <thead> <tr> <th>Quotation amount</th> <th>Payment</th> <th>Cap</th> </tr> </thead> <tbody> <tr> <td>≤£1,000</td> <td>£20</td> <td>Lesser of £200 or contract sum</td> </tr> <tr> <td>>£1,000 - ≤£4,000</td> <td>lesser of £100 or 2.5% of contract sum</td> <td>25% of contract sum</td> </tr> <tr> <td>>£4,000 - ≤£20,000</td> <td>£100</td> <td>25% of contract sum</td> </tr> <tr> <td>>£20,000 - ≤£50,000</td> <td>£100</td> <td>£5,000</td> </tr> <tr> <td>>£50,000 - ≤£100,000</td> <td>£150</td> <td>£9,000</td> </tr> </tbody> </table>	Quotation amount	Payment	Cap	≤£1,000	£20	Lesser of £200 or contract sum	>£1,000 - ≤£4,000	lesser of £100 or 2.5% of contract sum	25% of contract sum	>£4,000 - ≤£20,000	£100	25% of contract sum	>£20,000 - ≤£50,000	£100	£5,000	>£50,000 - ≤£100,000	£150	£9,000	See table
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GS12	Notifying customers and making payments owed under the standards (Regulation 12)	<p>A GT shall make payment in respect of a failure to meet a standard to the customer within 20 working days. Where a GT fails to achieve this level of service, a fixed compensation payment will be made.</p> <p>Where an interruption affects customers whose premises are connected to another network (and invokes a compensation payment under GS1), the GT that caused the interruption needs to pay the GT to whose pipe-line system the customer is connected (or to the customer directly³) within 10 working days. Where relevant, the GT to whose network the customer is connected then needs to pay the customer within five working days.</p> <p>Specific exemptions include if there is a genuine dispute between the relevant customer and the GT.</p>	£20																		
GS13	Advance notice of planned interruptions (Regulation 10A)	<p>If a GT proposes to carry out maintenance or replacement work which will require it to discontinue the conveyance of gas to customers, the GT shall issue a written notification stating the need for the interruption, stating the day the interruption is expected to start, not less than 5 working days before the start of the interruption.</p> <p>Specific exemptions include if the customer does not claim compensation within three months.</p>	£20 (domestic) £50 (non-domestic)																		

³ Under our proposed amendment to standard condition 20 the GT can satisfy the requirement of making a payment to the customer or the other GT by making a payment to the relevant shipper.

GS14	<p>Responding to complaints (Regulation 10B)</p>	<p>Where a GT receives a verbal complaint (on a telephone number that the GT has advised for that purpose or other number that could reasonably be expected to be an appropriate conduit for complaints) or written complaint relating to its transportation business to which it would reasonably expect the customer would anticipate a response, the GT shall despatch a substantive response to the customer within 10 working days from the date of the receipt of the complaint. If a GT has set up a customer complaints number we would expect customers who call another number to be transferred, where possible, to the customer complaints number. Alternatively if a GT does not have a customer complaints number it would be reasonable for calls to other appropriate telephone numbers, such as the number provided to customers through directory enquiries, to be considered appropriate for the purposes of making a verbal complaint.</p> <p>In the case of a complaint which requires a visit to the premises or the making of enquiries of persons who are not officers or employees of the GT, the GT shall despatch an initial response to the customer within 10 working days explaining why a substantive response cannot be despatched immediately, including the name, telephone number and address of an employee who the customer can contact about the complaint and stating that a substantive reply will be despatched within 20 working days from the date of receipt of the complaint. The GT shall subsequently follow the initial response with a substantive response within the 20 working days.</p> <p>If a GT fails to achieve this, it must make a fixed compensation payment to the customer. Further compensation will be paid for each additional period of five working days until the response is despatched.</p> <p>Specific exemptions include:</p> <ul style="list-style-type: none"> ▪ where the customer has informed the GT that he does not wish to pursue his complaint. ▪ where the GT is unable to contact the customer or relevant persons other than employees or officers of the GT, or had contacted such other persons but had not received a reply, despite having demonstrably taken all reasonable steps to do so. ▪ if a site visit is required, where the customer requests an appointment for the site visit that is outside the prescribed period. ▪ where the complaint was frivolous or vexatious. 	<p>£20 Cap per customer of £100</p>
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Proposed changes and our reasons for making the changes

A1.3. The proposed changes to the GSOPs are intended to address gaps in the existing arrangements and to provide an appropriate level of protection to customers. These proposals have been informed by a programme of customer research as required under section 33BAA(1)(a) of the Gas Act 1986 (as amended) prior to making any changes to the standards. We have consulted on our proposed changes to the GSOPs in earlier consultation documents including the initial proposals document⁴, the initial licence drafting consultation⁵ and the open letter on revised standards of performance arrangements for gas transporters⁶.

Supply restoration standard (Regulation 7)

A1.4. The existing supply restoration standard requires GTs to make a fixed compensation payment of £30 to domestic customers where they fail to restore their gas supply within 24 hours following an unplanned interruption on their networks. Further compensation must be paid for each additional period of 24 hours until supply is restored subject to a £1,000 cap. The standard does not apply to business customers, where the event originated on another GT's network, was due to third party damage or water ingress or where the interruption affects more than 50,000 customers.

A1.5. Compensation arrangements for business customers are set out in the UNC. Ofgem has agreed compensation arrangements for third party damage and water ingress interruptions with the GDNs in a letter of understanding which expires on 31 March 2008⁷.

A1.6. We are proposing to amend the supply restoration regulation to include small non-domestic customers consuming not more than 73,200 kWh per annum, remove the exemption for third-party and water ingress interruptions and exclude interruptions where more than 30,000 customers are affected. Small non-domestic customers would receive a payment of £50 for each 24 hour period until their supply is restored. We would expect larger non-domestic customers (consuming greater than 73,200 kWh per annum) to continue to receive at least the same overall levels of payments for supply interruptions through the UNC provisions.

A1.7. Any ambiguity in the allocation of responsibility for making compensation payments could affect customers' ability to receive the compensation that they are entitled to. We therefore propose to amend the regulation so that it sets out the mechanics of what happens when an interruption originating on one network affects customers connected to another GDN or IGT network.

A1.8. Where an interruption on one network affects customers connected to another GT's network, the GT to whose network the customer is connected will initially be responsible for making payments to that customer for any failure to restore. This GT will be able to claim an exemption if the interruption originated on another GT's network. Where the GT to whose network the customer is connected wishes to claim an exemption on this basis it must notify the other GT and provide appropriate information within five working days.

A1.9. The other GT then becomes liable, and must pay the GT to whose network the customer is connected (or to the customer) within ten working days. Where relevant, the

⁴ Gas Distribution Price Control Review Initial Proposals Document Ref 125/07, 29 May 2007.

⁵ GDPCR Initial Licence Drafting Consultation Ref 221/07, 10 September 2007.

⁶ Open letter on Ofgem's proposals to implement revised standards of performance arrangements for gas transporters Ref 279/07, 23 November 2007

⁷ <http://www.ofgem.gov.uk/Networks/GasDistr/GDPCR7-13/Documents1/17064-20070202%20TPWI%200708%20LoU%20NGG.pdf>.

GT to whose network the customer is connected must then pass on these payments to the customer within five working days. These arrangements ensure that the customer receives the payment within 20 working days, whether or not the interruption originated on the network they are connected to.

A1.10. Under our proposed amendment to standard condition 20 of the GT licence, which we will include in the statutory licence consultation which we intend to publish in mid February 2008, the GT can satisfy the requirement to make a payment to the customer or the other GT by making a payment to the relevant shipper.

A1.11. The GDNs have raised the issue of what happens if a supply interruption originated on their network, they restore supplies to the boundary of their network before compensation becomes due, but the other GDN or IGT fails to take the appropriate steps to restore the customer's supplies. They are concerned that they may still be liable to pay the full compensation. We consider that in such instances the customer should be paid the compensation by the GT on whose network the supply failure occurred, but there should be a mechanism for some or all of the compensation to be recovered from the other GT if they are partly or wholly responsible for the failure under the standard.

A1.12. We propose to amend standard condition 20 of the GT licence so that GTs who are liable to make payments under the supply restoration standard can recover all or part of these payments (including financing costs) from another GT where that other GT is fully or partially responsible for the failure.

Reinstatement of customers' premises (Regulation 8)

A1.13. We propose to amend regulation 8 to shorten the allowed period for reinstatement of customers' premises following work initiated by the GTs to 5 working days.

Provision of alternative heating and cooking facilities to priority domestic customers (Regulation 9)

A1.14. We propose to amend regulation 9 so that GTs are not required to provide alternative cooking and heating facilities to a priority domestic customer where that customer declines the offer of such facility. We also propose to amend the standard so that compensation is only payable where the customer makes a claim within three months.

A1.15. In practice, GDNs tend to offer alternative cooking and heating facilities to all domestic customers, not just those on the priority register. We received a consultation response from an electricity distribution network operator who said that the actions of GTs in providing alternative electrical cooking and heating facilities can cause overloading on the local electricity distribution network. Accordingly, we propose to revise the guidance document⁸ so that GTs should consult with (and have regard to any representations received from) the relevant electricity distribution network prior to distributing alternative electrical cooking and heating facilities to a large number of customers.

Notice of Connections (Regulation 10)

A1.16. We are proposing a number of minor changes to clarify the drafting of this regulation.

⁸ Guidance for reporting on Standards of Performance and Standard Special Licence Condition D10, November 2005.

Notice of Planned Interruptions (Regulation 10A)

A1.17. We propose to introduce a new regulation 10A to put in place a guaranteed standard to notify customers of planned interruptions. We propose that customers should be notified at least 5 working days in advance of a planned supply interruption. The compensation is proposed to be £20 for domestic customers and £50 for non-domestic customers.

A1.18. We had proposed to further strengthen the standard by requiring GTs to specify the week in which the interruption would occur and to make a payment if they interrupted outside this period. GDNs expressed concern that the new requirements in the standard for planned interruptions would restrict operational efficiency and would be a backward step from the existing service provided by the GDNs' customer liaison teams. GDNs also raised practical concerns regarding the requirement to give at least one working day prior warning if they are unable to keep to the specified window, due to exceptional circumstances.

A1.19. GDNs' customer satisfaction surveys generally give positive feedback in relation to the GDNs' efforts to notify customers of planned interruptions. We therefore consider it is appropriate to limit the standard to a requirement for GTs to provide at least five working days prior notice of the expected start of the interruption. We will keep this aspect of the GDNs' performance under review. If customer satisfaction survey results suggest that GDNs' performance has deteriorated, we may wish to reconsider this standard.

Responding to Complaints (Regulation 10B)

A1.20. We are proposing to introduce a new regulation 10B to put in place a guaranteed standard for responding to written customer complaints and verbal complaints that are made on a number that the GT has advised for that purpose or another telephone number that could reasonably be expected to be an appropriate conduit for complaints. If a GT has set up a customer complaints number we would expect customers who call another number to be transferred, where possible, to the customer complaints number. Alternatively if a GT does not have a customer complaints number it would be reasonable for calls to other appropriate telephone numbers, such as the number provided to customers through directory enquiries, to be considered appropriate for the purposes of making a verbal complaint. GTs would be required to respond to a complaint with a substantive response within 10 or 20 working days depending on whether a site visit or making enquiries of third parties is required. In addition where either a site visit or making enquiries of third parties is required the GT will be required to notify the customer of the delayed response and the reason for the delay. Where the GT fails any of these obligations it will be required to pay the customer £20 compensation.

A1.21. The GT will be required to pay additional compensation of £20 for each additional period of 5 working days until the substantive response is provided, subject to a cap of £100. The proposed regulation includes an exemption for frivolous or vexatious complaints.

Payments (Regulation 12)

A1.22. We are proposing amendments to this regulation to create a mechanism for GTs to make payments to customers on other GTs' networks including where an interruption on one network affects customers connected to another network. These changes are consistent with the proposed revisions to regulation 7 (see paragraph A1.8).

Information to be given to customers about overall performance (Part III, Regulation 16)

A1.23. We are proposing to delete paragraphs (2) and (5) of regulation 16 as we have proposed to remove the overall standards of performance for GTs and transfer a number of

the obligations into the gas distribution licence. A minor amendment is also made to paragraph (4) to reflect the changes to this regulation.

Other

A1.24. We propose a number of other minor amendments to clarify the drafting of the regulations.

Annex 2 - Timetable for implementation

A2.1. Section 33BAA of the Gas Act 1986 (as amended) requires Ofgem to conduct a statutory consultation on draft regulations for individual (or guaranteed) standards of performance.

A2.2. Following the consultation period and consideration of the responses, we will produce a final version of the regulations and seek the consent of the Secretary of State to implement them. We aim to make the regulations by 4 March with a view to the revised guaranteed standards of performance arrangements coming into force on 1 April 2008.

A2.3. In earlier documents we stated our intention to revoke the overall standards of performance for gas transporters and migrate their obligations into guaranteed standards or licence conditions. Ofgem intends to revoke the overall standards with effect from 1 April 2008. A draft statutory notice to that effect was included in the December licence drafting consultation⁹ and we will publish the revocation notice as part of the statutory licence consultation in mid February 2008.

A2.4. A more detailed timetable is set out below.

Table 1 – Indicative timetable for implementation of revised standards of performance

17 January 2008	Publish section 33BAA consultation
14 February 2008	Deadline for responses on s33BAA consultation
4 March 2008	Sealed Statutory Instrument to BERR for Secretary of State's consent
11 March 2008	Statutory Instrument to HMSO
28 March 2008	Implementation notice published
1 April 2008	Statutory Instrument takes effect

⁹ GDPCR: Second licence drafting consultation document, 290/07, Dec 2007, Appendix 8