



Ofgem

**Small GB Energy Suppliers
Audit and Best Practice Review
2008/09**

Final May 2009



Accountants &
business advisers

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1 Introduction and scope

- 1.1 The Consumers, Estate Agents and Redress Act 2007 (“CEAR”) required Ofgem to set new complaints handling regulations (“the Regulations”) that are binding upon regulated providers. Following extensive consultation with all key stakeholders including the energy suppliers that began in July 2007, the final Regulations were published on 1st July 2008.
- 1.2 The Regulations came into legal force on 1st October 2008 and it was expected that all regulated providers would have made the necessary changes to their complaints handling arrangements by that time.
- 1.3 When setting the Regulations Ofgem also committed to undertaking an early independent audit and best practice review to ensure that the new Regulations have been embedded into the complaints handling procedures for regulated gas and electricity suppliers.
- 1.4 PKF were appointed to conduct this review on behalf of Ofgem. This report sets out the findings of our work on the small energy suppliers in Great Britain (“GB”). The network businesses were not included within the scope of the review and a separate report has been prepared covering the six main GB energy suppliers.

Scope

- 1.5 The scope of the audit covered all the standards for complaints handling as set out in the Regulations.
- 1.6 The principal areas to be reviewed therefore included the following requirements:
- common definition of a complaint;
 - to have a complaints handling procedure consistent with the Regulations;
 - to record complaints upon receipt and subsequently;
 - to signpost the redress scheme if complaints cannot be resolved;
 - to maintain the resources necessary to deal with consumer complaints in an efficient and timely manner;
 - to agree arrangements with Consumer Focus for handling vulnerable consumers and threatened or actual disconnections;
 - to agree arrangements with Consumer Direct for referrals;
 - to signpost the complaints handling procedure; and
 - to publish information on complaints.

- 1.7 The arrangements in place at all regulated providers were reviewed from licensees supplying domestic and micro-business customers as defined by BERR's Order to ensure that comprehensive conclusions can be drawn regarding the operation of the new Regulations.
- 1.8 The agreed approach was based on the review of data collected from the small GB energy suppliers and a one-day site visit to a sample of two small suppliers to discuss the approach to complaints handling adopted by the supplier and to test on a sample basis the operation of procedures.
- 1.9 The detailed methodology that we followed is set out in Section 6 of this report.
- 1.10 This report has been prepared as part of the audit and best practice review of regulated providers under the terms of our contract with Ofgem. It has been prepared for Ofgem and we neither accept nor assume any responsibility or duty of care to any third party (including in particular the small GB energy suppliers) in relation to it.
- 1.11 The conclusions and recommendations are based on the results of the audit work carried out and are reported in good faith. However, because our methodology relies upon explanations and information provided by managers and sample testing, we recommend that Ofgem management should satisfy itself of the validity of any recommendations before acting upon them.

2 Conclusions

2.1 We have completed our review of the small GB energy suppliers' arrangements for meeting the requirements of the Regulations. By definition the small GB suppliers have fewer customers than the main GB suppliers, each reporting on average between ten and twenty complaints in the first three weeks of the operation of the new Regulations.

2.2 Our review included an assessment of their complaints handling arrangements for residential (where relevant) and micro-business customers and sample testing of their operation through a one-day site visit to a sample of two suppliers.

2.3 Based on the results of our review work we have reached the following conclusions:

Embedding the Regulations into complaints handling procedures

2.4 We noted that all but one of the small GB energy suppliers had published complaints handling procedures that had been revised to respond to the new Regulations. The one supplier (Business Energy Solutions) without published procedures at the time of our review advised us that it was their intention to finalise their procedures in the near future once they had received feedback from the audit.

2.5 We were also provided with details of the training programmes undertaken by these companies before the new Regulations came into force on 1st October 2008.

2.6 We were informed that ten of the suppliers had undertaken short staff briefing sessions and provided additional guidance to their customer facing staff and those with responsibility of complaints management. The remaining six suppliers had very small customer service teams and a less formal approach to briefing was undertaken.

2.7 Eleven of the suppliers used a database system to record complaints. This was in most cases a customer relationship management system that included a module for complaints handling. The remaining five suppliers logged complaints using Excel spreadsheets or manual records.

2.8 Our review of the information provided to us by the small suppliers indicated that no IT system changes had been implemented in response to the new Regulations since this would not be cost effective for suppliers with a small number of complaints.

2.9 We were advised that this has meant that some fields on the existing systems have been adapted or paper documentation is being maintained to meet the recording requirements of the Regulations.

2.10 The detailed findings of this aspect of our work are set out in Section 3 of this report.

Assessment of procedures against the Regulations

- 2.11 As part of our work we undertook a line by line assessment of the suppliers' published procedures against the Regulations.
- 2.12 We noted that the suppliers' procedures clearly set out the definition of a complaint, the steps required to process complaints, the arrangements for working with Consumer Focus and Consumer Direct in relation to complaints referred by these bodies and referred the consumer to the Energy Ombudsman scheme.
- 2.13 Some aspects of the suppliers' published complaints handling procedures did not however meet the requirements of the Regulations in full. The departures from the specific requirements varied from supplier to supplier, although the most common areas where enhancements are required to ensure that the published procedures comply with the Regulations in full are as follows:

COMMON AREAS WHERE ENHANCEMENTS ARE REQUIRED TO SUPPLIERS' PUBLISHED PROCEDURES	
Access	A published complaints handling procedure should be in place at all times.
	Details of addresses where consumers may discuss their complaints on a face to face basis (or a contact telephone number so that they can obtain details of the nearest convenient location) should be provided by all the suppliers in their published procedures.
	An up to date copy of the supplier's complaints handling procedures should be placed in a prominent position on the website.
Process	The opportunity for consumers to continue their complaint orally through the whole process needs to be included in the suppliers' published procedures.
	Complaints handling procedures should be updated to include a description of the steps which the supplier will take with a view to investigating and resolving a consumer complaint and the likely timescales for each of those steps.

COMMON AREAS WHERE ENHANCEMENTS ARE REQUIRED TO SUPPLIERS' PUBLISHED PROCEDURES

Remedy	Published complaints handling procedures should describe the relevant consumer's right to refer a consumer complaint to a qualifying redress scheme.
	Details of the remedies that the Energy Ombudsman may require the company to provide should be clearly stated in the suppliers' published procedures.
	Specific reference should also be made to the possible award of compensation if the complaint relates to the company's sales activities (for suppliers to residential customers)

2.14 We also believe that additional improvements need to be made by some of the suppliers to ensure that their published procedures meet best practice.

2.15 These are as follows:

- Consumers should be provided with contact details for the Citizens Advice Bureau in the published procedures; and
- the likely outcomes of an internal investigation of a complaint by the company (including compensation where appropriate) should be described.

2.16 The detailed findings of this aspect of our work are set out in Section 4 of this report.

Operation of procedures

2.17 Our assessment of the operation of procedures was based upon the information provided to us by the small suppliers and the results of our two site visits.

2.18 For the purposes of this review we assumed that the suppliers had provided us with all the relevant documentation that they had available in relation to their internal procedures.

2.19 We noted that seven suppliers had formally adopted the definition of a complaint as set out in the Regulations and had included this definition in their internal complaints handling procedures for the guidance of their staff. The other nine suppliers had not included the specific definition required by the Regulations in their internal procedures.

- 2.20 This is an area where it is particularly difficult to ensure consistency of approach between suppliers as there is an element of judgement involved on the part of individual advisers in determining whether a customer is dissatisfied.
- 2.21 Whilst we understand that briefing on the complaints definition was provided to staff at all the small suppliers, we believe that taking the further step of including the formal definition in the documented procedures would provide clearer guidance to complaints handling staff and reduce the level of potential inconsistency in approach.
- 2.22 For the two suppliers that we visited we undertook sample testing to assess whether the definition as set out in the Regulations was being applied. For one of the suppliers, our sample testing indicated that this was the case. However, for the other supplier that we visited, we were advised that complaints were only being recorded where they could not be resolved by the first line customer service staff and had been escalated to a manager for action. This approach is inconsistent with the requirement to record all expressions of dissatisfaction as a complaint.
- 2.23 Based on our review of the information provided to us by the suppliers, we noted that eight suppliers had clearly specified the requirements of Regulations 4 and 5 in their internal procedures providing guidance to complaints handling staff in the performance of their duties.
- 2.24 For the remaining eight suppliers their internal procedures were less precise and did not set out the specific requirements. We believe that those suppliers that have not set out the specific requirements of the Regulations in their documented procedures may not be recording all the information necessary in relation to logged complaints since they are placing a higher level of reliance upon their customer service staff to judge and record what is required.
- 2.25 During our two site visits we discussed the operation of the suppliers' procedures with management, walked through these procedures and tested a sample of complaints to assess whether the records that are required by Regulations 4 and 5 were being maintained and customers were being directed to the published procedures (Regulation 10). We also listened to a further sample of recorded calls to assess whether the identification of complaints and sign-posting by the two suppliers were consistent with the Regulations.
- 2.26 For both suppliers our sample testing indicated that many aspects of the requirements of the Regulations were not being met. In particular, we noted that information was recorded inconsistently by the suppliers' complaints handlers and in many cases was incomplete.
- 2.27 In our view, all suppliers should review how they ensure that staff dealing with complaints are fully aware of all the elements of the Regulations - Regulations 4 and 5 in particular.

- 2.28 For some of the suppliers we also noted that enhancements to their operational procedures were required in relation to the following areas:
- Ensuring up to date details of the redress scheme are placed in a prominent position on the website (within the complaints procedure) and that the deadlock letters that are currently in use to include a description of the various remedies available and to highlight that the decision of the Ombudsman is binding on the supplier but not upon the customer (Regulation 6);
 - Reviewing the level of reported complaints to confirm that the supplier is recording all complaints in accordance with the requirements of the Regulations (Regulation 7); and
- 2.29 We also noted that further work needs to be undertaken by the suppliers with residential customers to finalise their arrangements for meeting the annual reporting requirements of the Regulations by October 2009 in order to meet best practice.
- 2.30 The detailed findings of this aspect of our work are set out in Section 4 of this report.
- 2.31 For ease of reference the areas where further development is required to the suppliers' arrangements have been set out in more detail in Section 5 of this report.
- 2.32 Finally, we wish to thank all members of staff for their availability, co-operation and assistance during the course of our review.

PKF (UK) LLP
May 2009

3 Complaints management at small GB energy suppliers

Introduction

- 3.1 As part of our review, we collected information from each of the small energy suppliers in relation to their complaints handling procedures, the volume of complaints received and the steps that they had taken to prepare for the introduction of the new Regulations including training and system changes.
- 3.2 This enabled us to form a view of the preparations undertaken by the small suppliers to embed the Regulations within their complaints handling procedures. The findings of our work are set out below.

Complaints management arrangements

- 3.3 The sixteen small GB energy suppliers in operation at the time of our review were as follows:
- British Energy Direct;
 - Business Energy Solutions;
 - Contract Natural Gas;
 - Corona Energy;
 - Ecotricity;
 - First:Utility;
 - Gaz de France;
 - Gazprom;
 - Good Energy;
 - Haven Power;
 - Opus Energy;
 - Regent Gas;
 - Shell Gas Direct;
 - Spark Energy;
 - Total Gas and Power; and
 - Utilita
- 3.4 As part of our review, these suppliers advised us of their respective total residential and micro-business complaints during the first three weeks of the operation of the new Regulations (1st to 24th October 2008).
- 3.5 For the purposes of this review we relied upon the suppliers to provide us with accurate data regarding complaint numbers and accepted the data as unaudited.
- 3.6 For the most part the small suppliers provided energy solely to micro-business customers. Only five of the sixteen small energy suppliers that we reviewed provided energy to residential customers.

- 3.7 We noted that the complaints handling at the small suppliers was principally undertaken by staff within their customer service teams and escalated complaints were addressed by senior managers.
- 3.8 Some suppliers had reorganised their teams to allocate dedicated staff towards handling complaints that had not been resolved by the end of the first working day following the date of the receipt of complaint. The suppliers with the smallest teams inevitably had less capacity to undertake a significant reorganisation of their customer service staff to respond to the Regulations.
- 3.9 All but one supplier had published complaints handling procedures. However, we noted that the published procedures of the small suppliers were generally less detailed than those developed by the main GB energy suppliers and proportionate to the lower number of consumer complaints handled by the small GB suppliers.
- 3.10 Eleven of the suppliers used a database system to record complaints. This was in most cases a customer relationship management system that included a module for complaints handling. The remaining five suppliers logged complaints using Excel spreadsheets or manual records.
- 3.11 Our review indicated that there was a consistent approach adopted by all suppliers to the key management controls over their customer service teams, which included:
- Staff induction training and procedures; and
 - Supervision and management through side by side observation.
- 3.12 We were advised by some suppliers that they also used call recording to monitor the handling of complaints by their staff, although call recording was not in widespread use. In view of the small number of complaints received by some suppliers, (two thirds of the small suppliers advised us that they had received less than twenty complaints in the first three week period) complaints were reviewed on a case by case basis rather than by the assessment of sophisticated management reports.

Preparations for the new Regulations

Staff training

- 3.13 In preparation for the introduction of the new Regulations on 1st October 2008, we noted that ten of the suppliers had undertaken short staff briefing sessions and provided additional guidance to their customer facing staff and those with responsibility of complaints management. The remaining six suppliers had very small customer service teams and a less formal approach to briefing was undertaken.

- 3.14 We were advised by all suppliers that the principal focus of the formal briefings undertaken was upon the definition of a complaint as set out in the Regulations.

System enhancements

- 3.15 We obtained details of the work undertaken by the small suppliers to review and update their systems in preparation for the implementation of the new Regulations on 1st October 2008.
- 3.16 Our review of the information provided to us by suppliers indicated that no system changes had been implemented in response to the new Regulations since this would not be cost effective for suppliers with a small number of complaints. Where there is scope for recording all the information required by the Regulations on their existing systems (e.g. by using free text fields) we were advised that this approach is being adopted. Where the system cannot accommodate the recording requirements, we understand that paper documentation or spreadsheets are being used to maintain a record of those matters than cannot be recorded electronically.

4 Detailed assessment against the Regulations

Introduction

- 4.1 As part of our review, we undertook a detailed assessment of the suppliers' published and operational procedures against the specific requirements of the Regulations. Our findings in respect of each aspect of the Regulations are set out below.

Definition of a complaint

Section 2.1

- 4.2 Section 2.1 of the Regulations defines a complaint as follows:
- 4.3 "Complaint" means any expression of dissatisfaction made to an organisation, related to any one or more of its products, its services or the manner in which it has dealt with any such expression of dissatisfaction, where a response is either provided by or on behalf of that organisation at the point at which contact is made or a response is explicitly or implicitly required or expected to be provided thereafter."

Findings

- 4.4 The small energy suppliers provided us with details of their internal complaints handling procedures. We also obtained a description from each supplier of the approach that they had adopted in relation to defining a complaint.
- 4.5 We noted that seven suppliers had formally adopted the definition of a complaint as set out in the Regulations and had included this definition in their internal complaints handling procedures for the guidance of their staff. The other nine suppliers had not included the specific definition required by the Regulations in their internal procedures.
- 4.6 This is an area where it is particularly difficult to ensure consistency of approach between suppliers as there is an element of judgement involved on the part of individual advisers in determining whether a customer is dissatisfied.
- 4.7 Whilst we understand that briefing on the complaints definition was provided to staff at all the small suppliers, we believe that taking the further step of including the formal definition in the documented procedures would provide clearer guidance to complaints handling staff and reduce the level of potential inconsistency in approach - especially in those cases where it is not self-evident that the customer is dissatisfied.
- 4.8 For the two suppliers that we visited we undertook sample testing to assess whether the definition as set out in the Regulations was being applied.

- 4.9 For one of the suppliers, our sample testing indicated that this was the case. However, for the other supplier that we visited, we were advised that complaints were only being recorded where they could not be resolved by the first line customer service staff and had been escalated to a manager for action. This approach is inconsistent with the requirement to record all expressions of dissatisfaction as a complaint.

Regulated provider's complaints handling procedure (Regulation 3)

Section 3 (1-4)

- 4.10 A regulated provider must have in place at all times a complaints handling procedure.
- 4.11 Each regulated provider must comply with its complaints handling procedure in relation to each consumer complaint it receives.
- 4.12 Each regulated provider's complaints handling procedure must:
- be in plain and intelligible language;
 - allow for consumer complaints to be made orally (by telephone or in person at the regulated provider's business premises) or in writing (including by email);
 - allow for consumer complaints to be progressed through each stage of the complaints handling process orally (by telephone or in person at the regulated provider's business premises) or in writing (including by email);
 - describe the steps which the regulated provider will take with a view to investigating and resolving a consumer complaint and the likely timescales for each of those steps;
 - provide for an internal review of an existing consumer complaint where a complainant indicates that they would like such a review to occur because they are dissatisfied with the handling of that consumer complaint;
 - inform relevant consumers of the names and contact details of the main sources of independent help, advice and information that are available to them. For these purposes a source of help, advice and information shall be independent if it is independent of regulated providers, a qualified redress scheme and the Authority;
 - describe the relevant consumer's right to refer a consumer complaint to a qualifying redress scheme:
 - ❖ on and from the point at which the regulated provider notifies the relevant consumer in writing that it is unable to resolve the consumer complaint to the relevant consumer's satisfaction; and

- ❖ after the expiry of the specified time period; and
- set out the different remedies that may be available to a relevant consumer under the complaints handling procedure in respect of a consumer complaint, which remedies must include:
 - ❖ an apology;
 - ❖ an explanation;
 - ❖ the taking of appropriate remedial action by the regulated provider; and
 - ❖ the award of compensation in appropriate circumstances.

4.13 Those regulated providers who hold a licence under:

- section 7A(1) of the Gas Act 1986; or
- section 6(1)(d) of the Electricity Act 1989;
- must include in their complaints handling procedure as a remedy the award of compensation to domestic consumers, in appropriate cases, where the domestic consumer has been adversely affected by a failure of that regulated provider to comply with its obligations under, respectively, standard condition 25 (Marketing gas to domestic customers) of the Standard Conditions of the Gas Supply Licence or standard condition 25 (Marketing electricity to domestic customers) of the Standard Conditions of the Electricity Supply Licence.

Findings

4.14 We undertook a line by line review of each small energy supplier's published complaints handling procedures to assess them against the specified requirements of the Regulations.

4.15 The findings of our assessment of the suppliers' published procedures are set out below.

Requirement	No. Suppliers Compliant	No. Suppliers Non-Compliant
Published complaints handling procedure in place in plain and intelligible language	15	1

Requirement	No. Suppliers Compliant	No. Suppliers Non-Compliant
Procedures allow for consumer complaints to be made orally (by telephone or in person at the regulated provider's business premises) or in writing (including by email)	4	12
Procedures allow for consumer complaints to be progressed through each stage of the complaints handling process orally	10	6
Procedures describe the steps which the regulated provider will take with a view to investigating and resolving a consumer complaint and the likely timescales for each of those steps	14	2
Procedures provide for an internal review by the supplier	15	1
Procedures inform relevant consumers of the names and contact details of the main sources of independent help	1	15
Procedures describe the relevant consumer's right to refer a consumer complaint to a qualifying redress scheme	14	2
Procedures set out the different remedies that may be available to a relevant consumer	8	8
Procedures include as a remedy the award of compensation to domestic consumers, in appropriate cases, where the domestic consumer has been adversely affected by a failure of that regulated provider to comply with its obligations under, respect standard condition 25 of the Standard Conditions of the Gas Supply Licence or of the Standard Conditions of the Electricity Supply Licence	10 not applicable as do not supply domestic customers	6

- 4.16 From our review we noted that none of suppliers had met all of the requirements of Regulation 3 in their published complaint handling procedures.
- 4.17 One supplier (Business Energy Solutions) had not published any complaints handling procedures at the time of our review and advised us that it was their intention to finalise their procedures in the near future once they had received feedback from the audit. However, four suppliers had only made one or two departures from the requirements. The other eleven suppliers had not met at least four of the specific requirements of Regulation 3.

Recording complaints upon receipt (Regulation 4)

Section 4 (1-6)

- 4.18 Upon receipt of a consumer complaint a regulated provider must record in a written, electronic format the following details:
- the date that the consumer complaint was received;
 - whether the consumer complaint was made orally or in writing;
 - the identity and contact details of the relevant consumer making the consumer complaint or on whose behalf the consumer complaint is made;
 - where the regulated provider who receives the consumer complaint holds a licence under section 7A(1) of the Gas Act 1986 or under section 6(1)(d) of the Electricity Act 1989 or both, the account details of the relevant consumer making the consumer complaint or on whose behalf the consumer complaint is made;
 - a summary of the consumer complaint;
 - a summary of any advice given or action taken or agreed in relation to the consumer complaint;
 - whether the consumer complaint has become a resolved complaint and, if so, the basis upon which the regulated provider considers that the consumer complaint is a resolved complaint; and
 - the method for future communication (if any) that has been agreed with the complainant.
- 4.19 Where any subsequent contact is made with the regulated provider in relation to an existing consumer complaint that regulated provider must, upon receipt of that subsequent contact, record:
- the date of that contact;
 - whether the subsequent contact was made orally or in writing;

- whether the complainant making the subsequent contact is the same complainant as, or different to, the complainant who made the original contact regarding an existing consumer complaint and, where different, the identity and contact details of the complainant making the subsequent contact;
- a summary of that contact;
- a summary of any advice given or action taken or agreed in response to any points raised in that contact;
- whether the consumer complaint has become a resolved complaint and, if so, the basis upon which the regulated provider considers that the consumer complaint is a resolved complaint; and
- the method for future communication (if any) that has been agreed with the complainant.

4.20 All details recorded in accordance with paragraph 2 (4.19 above) must be clearly linked to an existing consumer complaint.

4.21 For the purposes of paragraph 1 (4.18 above) and 2 (4.19 above) and Regulation 5 a consumer complaint or any subsequent contact shall be treated as having been received by a regulated provider:

- where the consumer complaint or subsequent contact is made orally (by telephone or in person at the regulated provider's business premises), at the time at which it is received by that regulated provider;
- where the consumer complaint or subsequent contact is made in writing (including by email) and it is received before 1700 hours on a working day, on the working day that it is received by that regulated provider;
- where the consumer complaint or subsequent contact is made in writing (including by email) and it is received by the regulated provider after 1700 hours on a working day or at any time on a day that is not a working day, on the first working day immediately following the day upon which it is received by that regulated provider.

4.22 Where a complainant claims to have made a consumer complaint in respect of a matter but it is not possible to identify a relevant existing consumer complaint, the regulated provider must record the fact that it is unable to trace the existing consumer complaint.

4.23 Where a regulated provider has recorded that a consumer complaint is a resolved complaint but subsequent contact from a complainant in relation to that consumer complaint indicates that it is not a resolved complaint, the regulated provider:

- Must record details of this change in the consumer complaint's status in its recording system;
- Must as soon as reasonably practicable after becoming aware that the consumer complaint is not a resolved complaint:
 - ❖ Direct the complainant to the complaints handling procedure on its website; and
 - ❖ Offer to provide a copy of the complaints handling procedure to the complainant free of charge.
- Must take account of that consumer complaint in any report which it is obliged to prepare and publish in accordance with Regulation 11; and
- Shall not otherwise be entitled to treat that consumer complaint as a resolved complaint for the purposes of these Regulations until that consumer complaint is demonstrably a resolved consumer complaint.

Recording handling of complaints (Regulation 5)

Section 5 (1-2)

- 4.24 In addition to recording information in accordance with Regulation 4, each regulated provider must keep a written electronic record of the matters specified in paragraph 2 (4.25 below) for each consumer complaint which it receives where that consumer complaint has not become a resolved complaint by the end of the working day after the day on which the consumer complaint was first received by that regulated provider.
- 4.25 The matters which must be recorded in accordance with paragraph 1 (4.24 above) are:
- The steps the regulated provider has taken in response to each such consumer complaint, including any steps it has taken to resolve that consumer complaint;
 - The date (if any) upon which any such consumer complaint became a resolved consumer complaint;
 - The date (if any) upon which the specified time period expired; and
 - The date (if any) upon which the relevant consumer who made the consumer complaint or on whose behalf the consumer complaint was made, was informed of their right to refer that consumer complaint to a qualifying redress scheme in accordance Regulation 6.3 (4.36 below).

Findings

- 4.26 We undertook the following review work to assess compliance with Regulations 4 and 5.

- 4.27 The small energy suppliers provided us with details of their internal complaints handling procedures. We also obtained a description from each supplier of the approach that they had adopted in relation to recording complaints. This included their arrangements for recording the actions taken to resolve the complaint and any subsequent contact with the customer in relation to that complaint.
- 4.28 From the information provided to us by the suppliers regarding their complaints handling systems, we noted that all suppliers had needed to amend their existing processes and systems to meet the requirements of the Regulations. This was being undertaken through the adaptation of existing fields on the systems to record the additional data required (usually in free text fields) or by the introduction and maintenance of additional paper records.
- 4.29 Based on our review of this information, we noted that eight suppliers had clearly specified the requirements of Regulations 4 and 5 in their internal procedures providing guidance to complaints handling staff in the performance of their duties. For the remaining eight suppliers their internal procedures were less precise and did not set out the specific requirements. We believe that there is a danger that those suppliers that have not set out the specific requirements of the Regulations in their documented procedures may not be recording all the information necessary in relation to logged complaints since they are placing a higher level of reliance upon their customer service staff to judge and record what is required.
- 4.30 For the two suppliers that we visited we undertook sample testing including call listening and review of logged complaints to confirm that the records required by Regulations 4 and 5 were being maintained. For both suppliers our sample testing indicated that many aspects of the requirements of the Regulations were not being met. In particular, we noted that information was recorded inconsistently by the suppliers' complaints handlers and in many cases was incomplete.
- 4.31 Key areas where the information required by the Regulations was not recorded or was inconsistent with other records at the two suppliers visited included:
- Date of receipt of the complaint;
 - Method of complaint;
 - Method of communication agreed with customer;
 - Subsequent contacts recorded as new complaints in error;
 - Details not recorded of subsequent contact;
 - Details of advice or steps taken to resolve the complaint;
 - Whether the complaint had been resolved;

- Date of resolution of complaint; and
- Dates of signposting to the suppliers' published complaints handling procedures and to the redress scheme.

Signposting consumers to the redress scheme if complaints cannot be resolved (Regulation 6)

Section 6 (1-3)

- 4.32 The regulated provider must send a relevant consumer a written notice informing that relevant consumer of the matters addressed at paragraph 2 (4.36 below) in the circumstances described at paragraph 3 (4.36 below).
- 4.33 A notice sent in accordance with paragraph 1 (4.34 above) by the regulated provider must notify the relevant consumer:
- of their right to refer the consumer complaint to a qualifying redress scheme;
 - that the qualifying redress scheme process is independent of the regulated provider;
 - that the qualifying redress scheme process is free of charge to the relevant consumer and to any other category of complainant;
 - of the types of redress that may be available under a qualifying redress scheme; and
 - that any outcome of the qualifying redress scheme process is binding upon the regulated provider but not upon the relevant consumer or any other category of complainant.
- 4.34 A regulated provider must send a notice to a relevant consumer in accordance with paragraph 1(4.34 above) on the earlier of:
- the first working day after the day (if any) upon which that regulated provider becomes aware that it is not able to resolve a consumer complaint to that relevant consumer's satisfaction; and
 - the date upon which the specified time period for that consumer complaint expires unless that date falls on a day that is not a working day, in which case the first working day thereafter.

Findings

- 4.35 The small energy suppliers provided us with details of their internal procedures for signposting customers to the redress scheme when a customer complaint cannot be resolved by the end of the first working day after the day the consumer complaint was first received.

- 4.36 We also obtained a description from each supplier of the approach that they had adopted in relation to signposting the redress scheme to customers.
- 4.37 Based on our review of this information, we noted that nine suppliers had clearly specified the need to signpost customers to the redress scheme in their internal procedures at the end of the first working day after the day the consumer complaint was first received.
- 4.38 The remaining seven suppliers advised us that they were signposting the customers to the redress scheme even though it was not formally set out in their internal procedures.
- 4.39 For the two small suppliers that we visited we discussed the redress scheme with management, including their pro-forma signposting letters which were then assessed against the requirements of the Regulations.
- 4.40 For both suppliers, we noted that if a complaint cannot be resolved by the customer relations staff it is escalated to a manager or director to assist the customer.
- 4.41 Any complaint that is still open after twelve weeks or where deadlock has been reached the supplier notifies the customer of the steps they can take including the redress scheme by sending them a formal letter. We noted that the pro-forma signposting or deadlock letters used by both suppliers clearly stated that the Energy Ombudsman service is independent and free of charge and that the decision of the Ombudsman is binding on the supplier but not upon the customer as required by Regulation 6.
- 4.42 However, we noted for one of the suppliers the letters did not describe the various remedies available to customers including an apology, compensation or any other action as deemed necessary by the Energy Ombudsman. Since our review was undertaken only a short time after the new Regulations came into force, we did not identify any cases at the two suppliers visited where twelve weeks had passed or deadlock had been reached and the customer was entitled to redress to the Energy Ombudsman.

Allocation and maintenance of adequate resources for complaints handling (Regulation 7)

Section 7 (1)

- 4.43 Each regulated provider must:
- receive, handle and process consumer complaints in an efficient and timely manner; and
 - allocate and maintain such level of resources as may reasonably be required to enable that regulated provider to receive, handle and process consumer complaints in an efficient and timely manner and in accordance with these Regulations.

Findings

- 4.44 We obtained information from each small supplier regarding the staff deployed towards complaints handling and the approach that they had adopted to ensuring that sufficient staff remain available to respond to consumer complaints. From our review of the information provided we noted that at most small suppliers complaints handling was undertaken by staff with wider customer care responsibilities and unlike the main GB energy suppliers full time complaints handling teams were not employed. The number of staff deployed specifically towards complaints handling was therefore difficult to quantify.
- 4.45 We also obtained details of the number of complaints received by each supplier during the first three weeks of the operation of the new Regulations (1st to 24th October 2008) since this was the only data available in relation to the new regulatory regime at the time of our review. For the purposes of this review we relied upon the suppliers to provide us with accurate data regarding complaint numbers and accepted the data as unaudited.
- 4.46 Two thirds of the small suppliers advised us that they had received less than twenty complaints in the first three week period. Five of these suppliers informed us that they had not received any complaints. Only one supplier reported more than 100 complaints in the period.
- 4.47 As we have noted above, our review work indicated that a common definition of complaint does not appear to be in use by all the small suppliers and many may only be recording escalated complaints rather than expressions of dissatisfaction. This finding, together with the general deployment of staff towards a wide range of customer care activities (including complaints handling) means that it is difficult to conclude whether the small suppliers have sufficient resources to respond to customer complaints. However, each small supplier provides energy to a relatively low number of customers and all the suppliers advised us that they believed that they had deployed sufficient resources in proportion to the number of complaints that they received.

Section 12 and 13 complaints (Regulation 8)

Section 8 (1-2)

- 4.48 A regulated provider must, after discussion with the Council (Consumer Focus), put in place appropriate arrangements to deal effectively with section 12 and 13 complaints.
- 4.49 If the Council (Consumer Focus) refers a vulnerable consumer or a consumer complaint relating to a vulnerable consumer to a regulated provider, that regulated provider must take such additional steps as it considers necessary or appropriate with a view to, as appropriate, assisting that vulnerable consumer and resolving the relevant consumer complaint in an appropriate and prompt manner.

Findings

- 4.50 We obtained information from each small supplier regarding the arrangements that they had put in place with Consumer Focus for handling referrals. In most cases the suppliers advised us that they had provided Consumer Focus with contact details (e.g. telephone number, email address) for referrals.
- 4.51 However, four suppliers informed us that they had not contacted Consumer Focus in response to the introduction of the new Regulations since in their view Regulation 8 did not apply to them as they only supplied micro-business customers. This interpretation is incorrect.
- 4.52 In general, we noted that a formal process had not been agreed with Consumer Focus by the small suppliers in view of the low volume of referrals anticipated. The suppliers advised us that they considered an exchange of contact details to be sufficient and neither they nor Consumer Focus had apparently reported any difficulties with this arrangement.
- 4.53 For the two suppliers that we visited, we noted that their internal complaints handling procedures included specific requirements for handling Consumer Focus referrals. However, we were unable to confirm that these arrangements were being followed by the suppliers through our sample testing since we were informed that neither supplier had received a referral from Consumer Focus at the time of our visit.

Referral of consumers from Consumer Direct (Regulation 9)

Section 9 (1-2)

- 4.54 Each regulated provider must, after discussion with Consumer Direct, put in place appropriate arrangements to deal effectively with referrals to it from Consumer Direct of consumer complaints and, if appropriate, complainants.
- 4.55 The arrangements required by paragraph 1 (4.58 above) must set out a process by which Consumer Direct may make such referrals to the regulated provider.

Findings

- 4.56 We obtained information from each small supplier regarding the arrangements that they had put in place with Consumer Direct for handling referrals.
- 4.57 In most cases the suppliers advised us that they had provided Consumer Direct with contact details (e.g. telephone number, email address) for referrals. However, two suppliers informed us they had not contacted Consumer Direct to update their arrangements in response to the new Regulations.

4.58 In general, we noted that a formal process had not been agreed with Consumer Direct by the small suppliers in view of the low volume of referrals anticipated. The suppliers advised us that they considered an exchange of contact details to be sufficient and neither they nor Consumer Direct had apparently reported any difficulties with this arrangement. For the two suppliers that we visited, we noted that their internal complaints handling procedures included specific requirements for handling Consumer Direct referrals. However, we were unable to confirm that these arrangements were being followed through our sample testing since we were informed that neither supplier had received a referral from Consumer Direct at the time of our visit.

Information to be provided to consumers (Regulation 10)

Section 10 (1-4)

4.59 Each regulated provider must ensure that its complaints handling procedure appears at a clear and prominent location on its website.

4.60 Where a consumer complaint has not become a resolved complaint by the end of the first working day after the day the consumer complaint was first received by a regulated provider, the regulated provider must as soon as reasonably practicable (unless it has already done so in respect of the relevant consumer complaint):

- direct the complainant to the complaints handling procedure on its website; and
- offer to provide a copy of the complaints handling procedure to the complainant free of charge.

4.61 Each regulated provider must, at least once in every twelve-month period, inform all of its domestic consumers (or arrange for all of its domestic consumers to be informed) of the existence of its complaints handling procedure and how a relevant consumer may obtain a copy of it.

4.62 A regulated provider must provide a copy of its complaints handling procedure, free of charge, to any person who requests a copy.

Findings

4.63 We reviewed the sixteen small suppliers' websites and sought to obtain a copy of their published complaints handling procedures.

4.64 We also reviewed the information that they provided to us regarding their internal procedures for signposting the published procedures when a customer complaint cannot be resolved by the end of the first working day after the day the consumer complaint was first received.

4.65 The findings of our work are set out below.

Requirement	No. Of Suppliers Compliant	No. Suppliers Not Compliant
Published complaints handling procedures	15	1
Procedures in a prominent position on supplier website	10	6
Signposting clearly specified in internal procedures	9	7

4.66 During our site visits to the two selected small suppliers, we tested a sample of complaints for each supplier by reviewing the documentation available to assess whether customers had indeed been signposted to the suppliers' published complaints handling procedures.

4.67 We also listened to a sample of recorded calls to assess whether the complaints handlers were signposting the customer to the procedures when they identified that the complaint could not be resolved by the end of the first working day after the day the consumer complaint was first received. Both the suppliers that we visited advised us that they require their customer service staff to meet the signposting requirements of Regulation 10.

4.68 At one of the suppliers, our call listening indicated that customers were being signposted to the published complaints procedures. However, the customer service staff had not documented that this was the case in the complaints handling records.

4.69 At the other supplier that we visited, we did not perform call listening testing since this supplier only recorded calls in relation to complaints that had been escalated to management and excluded any complaints that had been resolved without internal investigation. We therefore reviewed the records maintained to document the processing (and signposting to the published complaints handling procedures where required) for a sample of complaints. From our sample testing we were unable to conclude whether the customer had indeed been directed to the suppliers' published complaints handling procedures.

Publication of information on complaints (Regulation 11)

Section 11 (1-2)

4.70 Regulated providers who hold a licence under section 7A (1) of the Gas Act 1986 or a licence under section 6 (1) (d) of the Electricity Act 1989 or both must:

- Publish annually a consumer complaints report in a prominent location on their website; and
- Provide a copy of their consumer complaints report, free of charge, to any person who requests a copy.

4.71 A consumer complaints report is a report in relation to the twelve month period ending with the month immediately preceding the month in which the report is published which contains the following information:

- The number of consumer complaints which the regulated provider received from domestic consumers during that period which had not become resolved complaints by the end of the first working day after the day the consumer complaint was first received by the regulated provider;
- That the regulated provider has a complaints handling procedure;
- How a copy of that procedure may be obtained;
- The existence of these Regulations; and
- How and from where a copy (including a hard copy) of these Regulations may be obtained.

Findings

4.72 As part of our review, we requested information from each supplier on the steps that they were taking to meet the reporting requirements of the Regulations. We then reviewed the data provided and compared the approaches adopted by the small suppliers. The findings of our work are set out below.

4.73 From our review of the suppliers' websites and the information that they provided to us, we noted that ten of the small suppliers only supply energy to micro-business customers. Since the consumer complaints report specified in Regulation 11 relates to domestic complaints, these ten suppliers are not required to produce such a report. For the six suppliers that supplied energy to domestic customers we noted that at the time of our review, all six had made little progress in developing their arrangements to address the annual reporting requirement.

4.74 However, these suppliers were of the view that they were able to meet the requirements of Regulation 11 by October 2009 since they only supply energy to a small number of consumers and have a relatively low number of complaints.

4.75 Nevertheless, the annual reporting arrangements for all the six small GB energy suppliers to whom Regulation 11 applies have still to be finalised.

5 Areas for development by small GB energy suppliers

REGULATION	DEVELOPMENT REQUIRED	NO. OF SUPPLIERS	MANDATORY	BEST PRACTICE
Definition of a complaint (Regulation 2)	The definition of a complaint to be applied consistently by all suppliers and complaints management procedures to be amended where necessary to require all dissatisfaction to be logged as a complaint.	9	✓	
Regulated provider's complaints handling procedure (Regulation 3)	A published complaints handling procedure should be in place at all times.	1	✓	
	Published complaints handling procedures to be updated to include the specific addresses of business premises where customers may visit should they wish to discuss their complaint face to face or a telephone contact number where they can obtain details of the most convenient site for them to visit.	12	✓	
	Complaints handling procedures to be updated to include the opportunity for customers to continue their complaint orally through each stage of the complaints handling process.	7	✓	

REGULATION	DEVELOPMENT REQUIRED	NO. OF SUPPLIERS	MANDATORY	BEST PRACTICE
Regulated provider's complaints handling procedure (Regulation 3)	Complaints handling procedures to be updated to include a description of the steps which the supplier will take with a view to investigating and resolving a consumer complaint and the likely timescales for each of those steps.	1	✓	
	Complaints handling procedures to be updated to provide for an internal review of an existing consumer complaint where a complainant indicates that they would like such a review to occur.	1	✓	
	Contact details of the Citizen's Advice Bureau and Consumer Direct as main independent advisers to be included in the suppliers' published complaints handling procedures.	15	✓	
	Published complaints handling procedures to describe the relevant consumer's right to refer a consumer complaint to a qualifying redress scheme.	2	✓	

REGULATION	DEVELOPMENT REQUIRED	NO. OF SUPPLIERS	MANDATORY	BEST PRACTICE
Regulated provider's complaints handling procedure (Regulation 3)	Published complaints handling procedures to include full details of the remedies that the Energy Ombudsman may require the supplier to provide.	15	✓	
	Complaints handling procedures to include the likely outcomes following an internal investigation of a consumer complaint, including compensation.	8		✓
	Complaints handling procedures to include full details of the possible award of compensation if the customer complaint relates to the supplier's sales activities (for suppliers to residential customers).	6	✓	
Recording complaints upon receipt (Regulation 4) Recording handling of complaints (Regulation 5)	The requirements of Regulations 4 and 5 to be clearly specified in the suppliers' internal procedures to provide guidance to complaints handling staff in the performance of their duties.	8	✓	

REGULATION	DEVELOPMENT REQUIRED	NO. OF SUPPLIERS	MANDATORY	BEST PRACTICE
Signposting consumers to the redress scheme if complaints cannot be resolved (Regulation 6)	Up to date details of the redress scheme to be placed in a prominent position on the website. Internal procedures to include the requirement to signpost customers to the redress scheme.	7	✓	
	Amendments to be made to the deadlock letters that are currently in use (where necessary) to include the various remedies available to customers including an apology, compensation or any other action as deemed necessary by the Energy Ombudsman.	15	✓	
Allocation and maintenance of adequate resources for complaints handling (Regulation 7)	Management to review the level of reported complaints to confirm that the supplier is recording all complaints in accordance with the requirements of the Regulations.	16	✓	
Information to be provided to consumers (Regulation 10)	An up to date copy of the supplier's complaints handling procedures to be placed in a prominent position on the website.	6	✓	
Publication of information on complaints (Regulation 11)	Finalisation of the arrangements for meeting the annual reporting requirements of the Regulations by October 2009.	6		✓

6 Detailed methodology

Objectives

- 6.1 The objectives of the review of the small GB energy suppliers specified by Ofgem were to:
- identify whether, and to what extent, the complaints handling standards have been embedded into gas and electricity suppliers' complaints handling procedures;
 - identify areas of weakness in suppliers complaints handling processes;
 - identify differences between suppliers in interpretation of the requirements of the complaints handling standards; and
 - identify areas of good practice in the application of the complaints handling standards.
- 6.2 Following detailed discussions with Ofgem we agreed the following approach to addressing the above objectives. The approach involved two principal stages:

Stage 1- Data collection

- 6.3 Stage 1 involved a data collection exercise. For each small supplier we requested information regarding their complaints management arrangements including:
- staff numbers deployed towards complaints handling;
 - customer service centres locations;
 - management structures; and
 - the steps that they had taken to embed the new Regulations. These steps included revisions to their procedures, staff training and system changes.
- 6.4 We also collected a list of complaints that they had received between 1st October and 24th October 2008 and their forecast number of complaints for the full year to September 2009. For the purposes of this review we relied upon the suppliers to provide us with accurate data regarding complaint numbers and accepted the data as unaudited.
- 6.5 This enabled us to form a view of the preparations undertaken by the small suppliers to embed the standards within their complaints handling procedures. The findings of this aspect of our work are set out in Section 3 of this report.
- 6.6 We also collected the core documents in relation to complaints management, including the suppliers' published complaints management procedures, redress procedures and internal staff procedures for recording and processing complaints.

6.7 We then undertook a line by line assessment of the suppliers' published complaints handling procedures against the specific requirements of the Regulations and also assessed the arrangements in place at each supplier to ensure that the resources deployed towards complaints handling remained sufficient. The findings of this aspect of our work are set out in the relevant paragraphs of Section 4 of this report.

Stage 2- Visits to suppliers

6.8 Stage 2 involved visiting two of the small suppliers. The suppliers selected included one supplier to micro-businesses who had reported between 10-20 complaints (the most common volume reported by the small suppliers that reported complaints) and one that had reported nil complaints (and provided energy to residential customers).

6.9 For each supplier we spent one day on site. The approach adopted comprised a mixture of walk through testing of the key system steps and sample testing.

6.10 The sample testing was based upon a sample of 10 complaints for each supplier selected from the suppliers' complaints handling records during our site visit. We were informed that neither supplier had received a referral from Consumer Direct or Consumer Focus at the time of our visit.

6.11 We also listened to a sample of recorded calls at one supplier. At the other supplier that we visited, we did not perform call listening testing since this supplier only recorded calls in relation to complaints that had been escalated to management and excluded any complaints that had been resolved without internal investigation.

6.12 The findings of this aspect of our work are set out in the relevant paragraphs of Section 4 of this report. Our on site testing work is summarised below.

TEST PROGRAMME	SAMPLE SIZE FOR EACH SUPPLIER	OBJECTIVES
Walk through testing	100% of all key system steps	Validation of internal procedure documentation provided to us during the data collection exercise and enhancing our understanding of how procedures were operating in practice Assessment as to how these procedures addressed the requirements of the Regulations in practice

TEST PROGRAMME	SAMPLE SIZE FOR EACH SUPPLIER	OBJECTIVES
Sample testing	10 complaints	<p>To assess whether procedures were being followed in accordance with the Regulations for:</p> <ul style="list-style-type: none"> • Recording and logging complaints; • Signposting the complaints handling procedures; • Signposting the redress scheme; • Handling Section 12 & 13 complaints; and • Handling Consumer Direct complaints.
Call listening testing	10 recorded calls for one supplier (refer 6.11 above)	<p>To assess whether procedures were being followed in accordance with the Regulations for:</p> <ul style="list-style-type: none"> • Use of consistent definition of complaint; • Recording and logging complaints; • Signposting the complaints handling procedures; and • Any other aspects of the Regulations relevant to the call.

Factual Clearance

- 6.13 At the end of the on site testing, a clearance meeting was held with management to confirm the factual accuracy of the evidence that we collected during our visit.

6.14 This was then followed up by a detailed review of the working papers collected and test results and a consistency check of the findings across all the small suppliers.

Consultation

6.15 In devising the above methodology we consulted with the various consumer representative bodies. This was undertaken in questionnaire form and enabled us to obtain their views on the audit and best practice review and the approach to be followed. The bodies that were involved in the consultation process included:

- Age Concern;
- Citizens Advice Bureau;
- Citizens Advice Scotland;
- Consumer Direct; and
- Consumer Focus; and
- Energy Ombudsman.