

# RMR: Third party intermediary(TPI) working group

## 1<sup>st</sup> Session

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Minutes for the Third Party Intermediary(TPI) RMR working group to discuss the proposal for a single Code of Practice for TPIs	From	Ofgem
	People invited	Energy suppliers, consumer organisations, Independent TPI code administrators
	Date and time of Meeting	Friday 8th February, 12:30pm
	Location	9 Millbank, Westminster, London, SW1P 3GE

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### 1. Welcome and introduction

- 1.1. All working group participants attended the meeting (see attached working group list for full names).
- 1.2. At the start of the session, Ofgem explained that the working group was specifically formed to include a range of different stakeholders with different points of view. As such, each participant was there to represent a type of stakeholder, not their individual company. To keep this focus, participants were asked to introduce themselves by briefly describing their business and the size of business customers they interact with, and were asked not to name the company they worked for.
- 1.3. Ofgem explained the reason for forming the group was to help inform the development of a single Code of Practice for non-domestic TPIs. This is because Ofgem see TPIs as being an important element of the energy market. The starting aim for the Code is to help to foster confidence in business customers engaging with TPIs and ultimately provide a route to prevent rogue TPIs from causing harm to business customers.
- 1.4. Ofgem gave some additional background in their interest in the non-domestic TPI area. (See attached presentation). Participants' comments focused on:-
  - *The nature of complaints about TPIs*
  - *A complaints 'route' as part of the COP for the interactions between suppliers, TPIs and Businesses would be discussed at a later stage.*
  - *Increasing use of TPIs over the past two years due to increasing consumer awareness in the market and rising energy costs.*
- 1.5. A summary of responses to Ofgem's TPI proposals in the Retail Market Review consultation was given:
  - *There was unanimous support for a single Code of Practice for TPIs*
  - *Almost undisputed support for a Code of Practice to apply to all TPI's in the market*
  - *There was strong agreement that a code should be governed by an independent body. Most felt that this should be Ofgem, particularly if we are granted powers to enforce the BPMRs.*

- *A number of respondents suggested we back up the TPI code with a supply licence condition to require suppliers to only work with TPI's who are accredited to the code.*
- *Respondents were supportive of the wider TPI review, views were varied on whether Domestic and Non Domestic markets should be reviewed in Unison*

#### 1.6. Introduction to the workgroup objectives and timings

- *All participants were asked to anonymously write down their view of the objective of the working group. A selection was read out, with only the colours of the post-it notes indicating whether they came from TPIs, suppliers or consumer organisations. Please see a high level summary below:-*
- *There were three key themes that emerged from the objectives given by working group attendee's. The 'How', 'Core Foundations' and 'What should a code do'. There were minimal comments around timelines and governance.*

#### **How do we get to a CoP?**

- *Agree common understanding of issues facing stakeholders and key components of the market*
- *Recognise the spectrum of TPI models*
- *Form objectives and agree scope of a CoP*
- *Find a clear and practical way to implement the highest standards to industry*

#### **Timelines and Governance**

- *Timelines and process, how and when*
- *To understand what role Ofgem feel they will have in governing TPIs, if any*

#### **What should the core foundations of a CoP be?**

- *Fair & Genuine*
- *Robust and Clear*
- *Transparent and open*
- *Have the necessary protections*
- *Fit for purpose*
- *Mandatory, is enforceable and can be managed*
- *Independent of suppliers*

#### **What should a CoP do?**

- *Protect and give Consumers/businesses confidence*
- *Address key market issues*
- *Put consumers interests and needs first*
- *Have independent redress for consumers/suppliers/TPIs*
- *Create a fair and competitive market for all parties*

- *At the start of the next meeting, Ofgem will set out the core Objective the working group will seek to meet, taking into account the comments.*

1.7. The Terms of Reference were discussed. There were no additional comments on them at the meeting.

## 2. Key topics for discussion

Group discussion

2.1. The participants were split into six groups, each comprised of a range of stakeholder types. Each group had 40 minutes to discuss and report back on the primary topic of how to describe the set of people/organisations the Code would apply to.

2.2. Each group reported back on the main points from their discussion.

Group	What is a TPI?	Other comments
Group 1	<p>The TPI Code should apply to a third party that intermediates between two parties in the non-domestic energy sector.</p> <p>Should apply to all TPIs and all services, because they could have been doing other things for that client that has no direct relation with that client.</p> <p>Needs to take account of different types of TPIs and Suppliers.</p>	<p>Will certain stakeholders be able to bypass the code by marketing themselves through other services?</p> <p>Commission should be part of this code.</p>
Group 2	<p>TPI: Anyone involved in marketing, contracting, supplying or implementing a transaction in the non domestic energy market.</p> <p>Shouldn't be differentials from suppliers.</p> <p>No distinction between electricity and gas. A TPI should apply the same standards as a supplier's direct sales team.</p>	<p>Objective of work group: protect consumers</p> <p>A code must inspire confidence in TPIs.</p> <p>No supplier should be able to contract with a rogue TPI (Strong message). Ultimately suppliers have the power to sanction (no longer work with those TPIs).</p> <p>Need to safeguard TPIs' rights, too, in relation to customer complaints.</p> <p>Comparison's made to the FSA and energy sure code.</p>
Group 3	<p>Body or a person who is not a supplier/ consumer.</p> <p>Business model including receiving energy-related offers (via prices).</p>	<p>One issue: SME – phenomenon of brokers pretending to be suppliers;</p> <p>Another issue: higher end of the market (this is a free service; commission is X but in reality is Y)</p> <p>Transparency for commission, not knowing how much it costs to use 'a' service.</p>
Group 4	<p>TPI is the person in the middle between the buyer and the seller. If you receive a financial amount either from the buyer or the seller, either directly or indirectly</p>	<p>Important to be clear, transparent of the type of agent you are and which channels you operate through</p>

	<p>Different types:</p> <ul style="list-style-type: none"> <li>- Agent of supplier</li> <li>- Consultant to customer</li> <li>- Sub broker</li> <li>- Agent of supplier and consumer</li> <li>- Operational</li> </ul> <p>Channels: Route to Market</p> <ul style="list-style-type: none"> <li>- Face to face</li> <li>- Telesales</li> <li>- Online</li> <li>- Telephony</li> <li>- Direct mail</li> </ul>	
Group 5	<p>Someone who places an order or offers or contracts for the sale of Elec or Gas. With upfront fee or without;</p> <p>Too difficult to cover all payment methods. If you are offering or trying to sell whatever type of energy contract. Overarching policy needed.</p> <p>Anyone between the supplier and consumer.</p> <p>Not concerned with the 'name' of a TPI (E.g. broker or consultant).</p>	<p>Will cover the whole TPI market.</p> <p>Need to be open and upfront about prices and commission.</p>
Group 6	<p>Should this be widened up to focus on all services, including procurement and energy efficiency.</p> <p>When the TPI is providing 'advice' or a 'service', where does the code come in.</p>	<p>What constitutes advice? What would the code govern?</p> <p>Does having a legal contract with a TPI opt you out of the code?</p> <p>Are consumers ill informed about the choices they have available to them?</p> <p>Does the size of the customer draw lines to where the code would apply? It will probably depend on the time and resources.</p>

### *Regulatory powers*

2.3. Ofgem gave a brief update on the consultation seeking views on Ofgem gaining the power to use the Business Protections from Misleading Marketing Regulations. This consultation can be found on Ofgem's website and closes on the 4<sup>th</sup> April 2013. While this is separate to the Working group, interested parties may wish to feed in their views.

2.4. It was also noted that the Energy bill may seek an amendment to clarify the position that Ofgem can ask the Secretary of State to make TPIs a licensable activity should it be decided that this will be in the interest of consumers to do so. This is being done in the context of wider work Ofgem is doing to evaluate Ofgem's interaction with TPIs more widely (including in the domestic market) and

to consider options for a regulatory framework that will best protect the interest of current and future energy consumers. An initial issues paper on this will be published in the first half of this year.

- 2.5. In light of this parallel workstream, it was noted that discussions on how the non-domestic TPI Code will be monitored and enforced will be held after this Issues paper has been published and reviewed.

### **3. Next Steps**

- 3.1. The next working group session will take place on 8<sup>th</sup> March from 12pm-3pm.
- 3.2. Timelines for the group were discussed. It was noted that there was considerable uncertainty about how long it would take to get agreement for a core Code, so further clarity on the expected life of the working group would be discussed after 3 meetings had been held. It was discussed that an aim for the group should be to conclude the discussions within this year.

### **4. Closing remarks**

- 4.1. All attendees were thanked for attending and for their insightful input. It was noted and appreciated that all parties had contributed in the spirit of working towards a common goal and that it was a useful first meeting upon which to build future discussions.