

RMR: Third party intermediary (TPI) working group

2nd Session

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 8 March, 12:30pm
	Location	9 Millbank, Westminster, London, SW1P 3GE

1. Welcome and introduction

1.1. All working group participants attended the meeting (see attached working group list for full names).

2. Key topics for discussion

Plenary discussion

2.1. At the start of the session, Ofgem proposed an objective for the TPI code of Practice group:

'To protect the interests of business consumers by giving them the confidence that when they use Third Party Intermediaries for energy related services, they will be honest and transparent and effectively assist them with their energy needs'

2.2. There were two points discussed following the objective;

1. What are Ofgem's intentions in relation to existing regulations?

- a. Group have said we should make it clear what regulations already apply and or overlap.

Ofgem agreed but also made it clear that a code would not free anyone from their existing obligations, i.e. Supplier licence conditions, or Business Protections for Misleading Marketing (BPMRs).

2. Comment was made about the timeliness of the implementation of the code.

- a. Some of the group were saying that this would be better to be implemented quicker even if it was not perfect.
- b. Also they were asking when we would be looking to implement.

Ofgem agreed that it would be beneficial to have a Code of Practice implemented as soon as possible. We want to ensure that 'what' we are implementing is properly researched, thought out and fit for purpose. But agree that the Code is something that can evolve.

Group discussion

The working group was split, with each of the halves discussing different topics. These were then discussed at the end of the meeting with all participants.

2.3. Two groups consisting of representative stakeholders discussed some of the current issues affecting the TPI market and suggested ways to address them. This was to establish the key areas that we would want the Code to be able to control, and therefore form the start of a 'check-list' to review the Code against when we have concluded the discussions about what will be in the Code.

<i>Disclosure fees</i>	of Disclosure that a commission exists, how and by whom it is paid
Regularity calls	of When does it become harassment? Ofcom regulations may indicate an answer
Identity and independence	and TPIs should be clear and upfront about who they are and who they represent. How many different suppliers must a TPI represent to be independent?
Pressure selling/ Misselling	<p>Participants struggled to distinguish pressure selling from misselling.</p> <p>They thought pressure selling was selling under a false time constraint. However, the pressure may be legitimate (i.e. the customer's switching window is ending). What makes the difference is how the TPI communicates the urgency to the customer. For example, how a TPI explains deemed (=out of contract) rates to potential customers.</p> <p>Participants also raised the point whether pressure selling particularly concerns new customers, because previous customers would be aware of their switching timelines etc.</p> <p>The acquisition of lists for cold-calling may be linked to pressure selling.</p> <p>Misselling: is misrepresenting any part of the process of the deal. It is very similar to transparency. It is related to giving the customer the best deal. But how to define the best deal?</p> <p>To avoid misselling, TPIs should be transparent and upfront about any services included in the deal. Misselling may include lying about a change of tenancy (COT) to end a contract. A TPI may do so on behalf of a customer</p>
Customer base	Participants thought whether micro businesses and SMEs might need more protection than larger customers might

Unscrupulous lead generation	Obtaining a potential customer's lead date unscrupulously
Letters of authority	Participants did not raise this issue(However this was mentioned briefly later in the group discussion)

2.4. The other half of the working group, split into two groups consisting of a range of stakeholders, discussed the potential structure of a Code of Practice (COP). The OFT code approval scheme framework, was used as a baseline example.

2.5. In the plenary discussion of the results of the groups, there were split views from one group, whether the code should be mandatory or voluntary. It was eventually discussed that a CoP would be quicker to implement should it be voluntary, however in the longer term we should consider making this CoP mandatory. Obligating suppliers through their licence to only deal with accredited TPIs, was also discussed as a good option.

Organisational structure	<p>All participants agreed that the organisational structure of the OFT code approval scheme framework was suitable for a TPI COP, however not all categories would be applicable.</p> <p>In addition, participants highlighted the need to make a swift decision on who would monitor and enforce the CoP. They also thought that the CoP should be binding, relevant, able to evolve, and have a clear objective.</p>
Preparation	All agreed with the general OFT structure, but emphasised the need to ensure that all are aware of the rationale what this means for them. Also we should take into account that the TPI energy market is fast moving and the code must always remain relevant.
Content	<p>Participants thought that the COP's contents should cover ending undesirable practices and ease consumer concerns. It should be very clear in its terms.</p> <p>This included:</p> <ul style="list-style-type: none"> - Overall Consumer protection – regardless of the organisation conducting the activity. For example Supplier or TPI. - Appropriate staff training. - Clear and transparent information (before and after the sale) that enables consumers to make an informed decision; Avoiding Misleading advertising and communication more widely. - Key contract terms and conditions(Pre sale) - High pressure selling techniques: clear and adequate

	<p>information around cancellation rights and deposits.</p> <ul style="list-style-type: none"> - Clearly establishing 'who' is liable in what part of the process - Customer service- This should be considered for all practices <p>Pricing and commission shown when appropriate or information should be made available should the customer require it. Supporting vulnerable consumers (more discussion needed)</p>
Complaints handling	<p>All agreed that this should be included in the CoP; however there was a need for a clear distinction between complaints about members of the code or complaints relating to supplier practices. Warrants further discussion.</p>
Monitoring and enforcement	<p>Internal monitoring will be the responsibility of each party who signed up to the COP; external monitoring would be the responsibility of the future governing body of the COP.</p>
Publicity	<p>This was not discussed in detail, however it was agreed that it is important that the consumer understands what a Code of Practice would mean for them and the benefits it may bring.</p>
Additions	<p>Participants added that a COP for TPIs should also cover marketing and lead generation activity</p>

3. Next Steps

3.1. The next working group session will take place on 25 March from 12.30pm-4pm.

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 second meeting.