

# Code of Practice for Non-domestic Third Party Intermediaries

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Code owner tbc

Date to be confirmed

**DRAFT**

*Note: This is an initial working draft document which has been prepared to reflect the discussions at the working group to date and to facilitate discussions with stakeholders. It should not create any expectation that Ofgem will act in a particular way in the future, including that Ofgem will adopt the Code or indicate the contents of any Code so adopted.*

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## **1. Definitions**

1.1. (To insert Glossary of Terms)

## **2. Scope of the code**

2.1. This Code of Practice ('the Code') applies to non-domestic Third Party Intermediaries (TPIs). For the purpose of this Code, a non-domestic TPI is an intermediary engaged in direct or indirect activities between a non-domestic Consumer (the 'consumer') and an Active Energy Supplier (the 'supplier').

## **3. Objective of the Code**

3.1. The objective of this Code (the 'Objective') is to:

*'protect the interests of non-domestic consumers and, in particular, their interests in having the confidence that when using a Third Party Intermediary (TPI), the TPI will act in a fair, honest, appropriate and transparent manner and effectively assist them with their energy supply needs.'*

3.2. The Code member shall take all reasonable steps:

- i. to secure the achievement of the Objective; and
- ii. to avoid doing anything which jeopardises its ability to achieve the Objective.

3.3. The steps which the member shall take to secure the achievement of the Objective shall include, without limitation, all steps outlined in chapter 4.

3.4. All TPIs who sign up to this Code of Practice agree to take all reasonable steps to interpret and apply the Contents of the Code in a manner consistent with the Objective.

## **4. Content of the Code**

### **4.1. Training**

- 4.1.1. It is each member's responsibility to ensure that they, all staff and any third parties they use receive appropriate training to ensure they understand and can competently follow the requirements of the Code and adhere to their legal obligations to consumers, including relevant regulations and legislation (including, but not limited to the regulations set out in section 5 of this Code).

### **4.2. Clear and truthful selling, marketing and advertising**

- 4.2.1. It is each member's responsibility to ensure that all forms of communications relating to sales, marketing and advertising:

- i. are compliant with all relevant legislation and regulations. This includes, but is not limited to, the 'Business Protection from Misleading Marketing Regulations'<sup>1</sup>(BPMMRs);
- ii. must be open and honest at all times and desist from giving or advertising false or misleading information. They will base all claims on evidence.

- 4.2.2. In particular, they must ensure they are clear and truthful and must not mislead the consumer about:

- i. their identity, including who they are, who they work for and/or represent. This includes the nature of their relationships with suppliers and how many suppliers they compare;
- ii. their purpose whenever interacting with a consumer; not limited to, but including, direct contacts and indirect contacts.
- iii. the characteristics of the energy supplier's product(s) offered to the consumer, including how those compare with other products in the market;
- iv. how suitable the product is for the customer, always considering the request(s) of the consumer and their best interests, if known.

### **4.3. Protect consumers from high pressure selling techniques**

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<sup>1</sup> Business Protection from Misleading Marketing Regulations (BPMMRs) [to be found here](#).

- 4.3.1. It is each signatory's responsibility to ensure that the process they use to secure a contract does not include high-pressure selling techniques aimed at, or having the effect of, forcing or pressurising a consumer into agreeing a contract or otherwise seeking to secure the consumers agreement on the basis of incorrect information or without the consumer having the opportunity to make an informed decision, or as a result of harassment, including telephone harassment.
- 4.3.2. In addition, the TPI must take extra care when discussing offers and products when interacting with consumers more at risk of being misled, due to their specific circumstances.

#### **4.4. Commission and Fees**

- 4.4.1. Prior to providing any product or service, the member must make the consumer aware that there is a charge or fee associated with their services. This includes any payment the consumer may make either directly to the TPI or indirectly through another, named, mechanism, for example where the TPI receives payment from or through a supplier.
- 4.4.2. In addition, the member must make consumers aware that they can be given detailed information on the charges or fees for the product or service upon request. This information must be set out in clear and intelligible language.

#### **4.5. Complete and accurate pre contractual information**

- 4.5.1. It is each member's responsibility to ensure that the consumer receives easily comparable information about the Principal Terms of the product(s) being offered and/or compared or discussed pre contract.
- 4.5.2. They must ensure that they provide this information in plain and intelligible language.

#### **4.6. Complete and accurate notification of contract terms**

- 4.6.1. Once the consumer has selected a preferred contract but before the consumer enters into the contract the member:
- i. must take all reasonable steps to bring to the attention of the consumer the Principal Terms and Conditions of the proposed contract and ensure that the information is communicated in plain and intelligible language;

- ii. must take all reasonable steps to ensure that the consumer is aware that they are entering into a legally binding contract, in particular but not limited to, when entering into contracts over the telephone.

4.6.2. Once the contract is agreed, the member:

- i. must take all reasonable steps to ensure that all the express terms and conditions of the contract are set out in writing and are made available to the consumer as soon as is reasonably practicable;
- ii. must ensure that the consumer is aware of what responsibilities will lie with each party (consumer, TPI and supplier).
- iii. must ensure the consumer is given clear information about who they should contact in the event of an issue or concern, including any relevant contact details.

#### **4.7. Dispute Resolution**

4.7.1. A member must have in place at all times a complaints handling procedure. The complaints handling procedure should be made available and easily accessible to all consumers. This can be in the form of a Written or Electronic communication. It must include:

- i. a description of the steps they will take to investigate and resolve a consumer complaint and the likely timescales for each of those steps;
- ii. information about the names and contact details of the main sources of independent help, advice and information that is available to them. For these purposes a source of help, advice and information shall be independent if it is independent of regulated providers, and a qualified redress scheme;
- iii. if the consumer complaint is related to the energy supplier, the member must always ensure that the energy supplier is made aware of the consumer complaint by the end of the working day after the day on which the consumer complaint was first received by that member. They must inform the customer they have done so;
- iv. if the consumer complaint is not resolved following the steps above, the member must ensure that the consumer is aware of the opportunity to resolve the complaint via further recourse.

4.7.2. The member must follow their internal complaints handling procedures to ensure the complaint is resolved to the customer's satisfaction, within the time scales set out in the procedures.

- 4.7.3. The consumer must be able to be contact the member easily and must be able to register a complaint easily.

#### **4.8. Monitoring**

- 4.8.1. (to be completed)

#### **4.9. Enforcement**

- 4.9.1. (to be completed)

### **5. Relevant regulation and industry commitments**

- 5.1. Business Protections from Misleading Marketing Regulations
- 5.2. (etc - to be completed.)

### **6. Associated documents**

- 6.1. (To be completed.)

Working Draft