

Code of Practice for Non-domestic Third Party Intermediaries

Code owner tbc
Date to be confirmed

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*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 **nor should it be taken to** 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 **electricity and gas** consumers and, **in particular, ensure that consumers have** confidence that when using a TPI, the TPI will act in a fair, honest, transparent, appropriate and **professional** 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 **all members** 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 **Code** member's responsibility to ensure that they, all staff and any third parties, **and/or agents** 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. Each member **must** ensure that all communications, **whether over the phone, face to face or electronic**, relating to sales, marketing and advertising:

- i. **comply** with all relevant legislation and regulations. This includes, but is not limited to, the 'Business Protection from Misleading Marketing Regulations'¹(BPMMRs); **and**
- ii. **are clear, true and not misleading .Claims must be capable of being evidenced or reliably substantiated.**

4.2.2. In particular, **each Code member** must ensure they are clear and truthful and **do 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 **which suppliers they approach for prices;**
- ii. their purpose whenever interacting with a consumer
- iii. the **Principal Terms** of the energy supplier's product(s) offered to the consumer, including how those **differ** with other products **the member compared for the consumer;** and
- iv. **the suitability** of the product for the customer.

4.3. Protect consumers from high pressure selling techniques

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

- 4.3.1. Members must refrain from using high-pressure sales techniques: They must not force or pressure a consumer into disclosing information or agreeing a contract. Each member will ensure that the consumer has the opportunity to make an informed decision, free from any kind of harassment, including telephone harassment.
- 4.3.2. In addition, the member must be particularly attentive to meet the needs of consumers, which are more at risk of being misled.

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. At the same time, the member will ensure that the consumer is aware that they can request detailed information on the breakdown of the charges or fees for the product or service from the member. This information must be set out in plain 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 **supplier** 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; and must be capable of providing evidence to this effect as and when needed.

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), and who they should contact in the event of an issue or concern, including any relevant contact details.

4.7. Dispute Resolution

4.7.1. The member must have a complaints handling procedure in place at all times. Consumers must be able to access this easily, in paper or electronically. It must include:

- i. the steps they will take to investigate and resolve a consumer complaint about a TPI and the likely timescales for each of those steps;
- ii. the names and contact details of the main sources of independent help and support available to them; and
- iii. if the consumer complaint is related to the energy supplier, that the member will make the energy supplier aware of the consumer complaint within one working day or as soon as is practicable. They must inform the customer when they have done so.

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. If the consumer complaint about the member is not resolved following the steps above, the member must direct the consumer to [the appropriate independent dispute resolution body].

4.7.3. The consumer must be able to be contact the member easily and must be able to register a complaint easily via a number of channels (phone, face to face, or written correspondence, including electronic communications).

4.7.4. The member must keep a record of complaints.

4.8. Monitoring

4.8.1. *(to be completed when the regulatory framework for the Code is finalised)*

4.9. Enforcement

4.9.1. *(to be completed when the regulatory framework for the Code is finalised)*

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