

To: Holders of Gas and Electricity
Supply Licences, DECC,
Ombudsman Services Energy and
the Citizens Advice Service

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4 June 2014

Dear Colleagues,

Amendment to consumer complaints handling arrangements for newly covered micro-business consumers

This letter seeks commitments from licensed suppliers and other relevant organisations¹ to use the new expanded micro-business definition when handling micro-business consumer complaints and referrals to the Citizens Advice Service and the Ombudsman Services Energy (OS:E).

Background

One of the key initiatives of the Retail Market Review (RMR) was to expand the definition of a micro-business contained in Standard Licence Condition 7A (SLC 7A) of the gas and electricity supply licences². This modification to SLC 7A took effect on 31 March 2014³ and put in place additional energy consumption thresholds of 100,000 kWh per year for electricity and 293,000 kWh per year for gas⁴. This provides further protections for up to 160,000 extra businesses.

As part of the definition contained in SLC 7A Ofgem retained a separate micro business definition set out in legislation relating to consumer redress⁵. This definition is also used for legislation relating to complaints handling⁶ and currently provides that a micro-business is one which meets any one of following criteria:

- It does not consume more than 55,000kWh per year for electricity and 200,000 kWh per year for gas; or
- It employs fewer than 10 employees (or the full time equivalent) and has an annual turnover or balance sheet total not exceeding €2million.

The changes made to the definition in SLC 7A has created an inconsistency where micro-businesses falling within the expanded consumption thresholds do not have the same statutory rights as smaller micro-businesses under legislation relating to complaints

¹ Ombudsman Services Energy (OS:E) and Citizens Advice Service (This includes Citizens Advice and Citizens Advice Scotland - including the Extra Help Unit (EHU)).

² Retail Market Review:

Implementation of the Retail Market Review non-domestic proposals, June 2013, 108/13, <https://www.ofgem.gov.uk/publications-and-updates/implementation-retail-market-review-non-domestic-proposals-%E2%80%93-decision-make-licence-modifications>.

³ We are aware that some suppliers already treat all micro-business consumers the same in relation to complaints handling arrangements.

⁴ Except for the purposes of SLC 7B, where it took effect on 26 August 2013.

⁵ The definition of "relevant consumer" set out in The Gas and Electricity Regulated Providers (Redress Scheme) Order 2008.

⁶ The Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008 (Complaints Handling Standard Regulations).

handling and redress (relevant legislation); for example whether their complaint can be referred to the OS:E.

DECC have committed to changing the relevant legislation to reflect our expanded consumption thresholds. They published their proposals in January 2014⁷ as part of the Red Tape Challenge⁸. We understand that the necessary legislative amendments will be made in the near future.

DECC's consultation⁹ on the legislative changes closed on 14 February 2014. The next step prior to the legislative change is an impact assessment, which will be published by DECC in June. The legislation will then be laid in parliament for approval.

Why Ofgem are seeking a voluntary agreement?

Effective complaint handling is a key aspect of the consumer experience and helps to build consumer trust. Building trust through enhanced consumer protections was a key driver for the RMR reforms.

We are keen to ensure all micro-business covered by our expanded consumption thresholds have access to the same complaint handling and redress arrangements as smaller micro businesses. We strongly urge licensed suppliers and related organisations to adopt the following steps as best practice until the legislative amendment referred to above takes effect:

- *handle all complaints from micro-business consumers covered by the amended definition in SLC 7A in accordance with the requirements of the Electricity and Gas (Consumer Complaints Handling Standards) Regulations 2008 relating to micro-business consumers*
- *licensed suppliers only: agree with and be bound by rulings of the OS:E based on the new definition in the interim period*

We have engaged with key organisations such as OS:E and the Citizens Advice Service. They are supportive of this initiative. The OS:E has agreed to accept complaints from micro-businesses covered by the expanded definition in SLC 7A from **22nd April 2014**¹⁰.

Next steps

If your organisation is supportive of the voluntary agreement requested in this letter or if you have any queries regarding the content of this letter, please formally respond by letter or email to Meghna Tewari, Senior Economist for Non-domestic Retail Markets by Friday 20th June 2014.

Please send all postal responses to the following address:

4th floor
Ofgem
9 Millbank
London
SW1P 3GW.

Alternatively please use the following email address: Meghna.Tewari@ofgem.gov.uk

⁷ The Gas and Electricity Regulated Providers (Redress Scheme) Order 2008(The "Order") consultation document, see <https://www.gov.uk/government/consultations/the-gas-and-electricity-regulated-providers-redress-scheme-order-2008>

⁸ This is HM Government's programme to remove and reform areas of regulation.

⁹ The Gas and Electricity Regulated Providers (Redress Scheme) Order 2008 consultation document.

¹⁰ OS:E has been accepting complaints from the 22nd April 2014. They will accept any complaint relating to any matter that occurred after 22nd April 2014 and they may also accept a complaint made after that date but which related to events from before 22nd April 2014.

Your commitment to this voluntary agreement will be published on our website in due course.

Yours faithfully,

Rob Church

Associate Partner: Smart Metering and Smarter Markets