

'Licence Lite': proposed updates to the SLC 11.3 operating guidance

Consultation

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Overview:

In 2009 we introduced an option within the electricity supply licence to allow for a conditional derogation from the requirements under Standard Licence Condition (SLC) 11.2 to be a party to the industry codes. This option – which has become known as 'Licence Lite' – was designed to overcome market entry barriers experienced by distributed energy generators, specifically those assessed as presenting the highest cost and highest competency hurdles to accessing the public network and selling electricity to consumers.

We are now proposing changes to the 2009 Licence Lite guidance to reflect policy and regulatory changes and in response to increased levels of stakeholder interest. This consultation does not propose fundamental changes to the original intention of Licence Lite, but does outline a number of proposed additions, updates and clarifications to the main areas of the 2009 guidance.

The 2009 draft guidance applies until the final guidance is published. However, if prospective Licence Lite applicants wish to speak with us to ensure their arrangements will be appropriate under enduring arrangements, they should contact sustainable.energy@ofgem.gov.uk.

This consultation and the associated draft guidance are non-binding. Parties should seek their own legal advice before applying for a Licence Lite direction.

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Executive Summary

In February 2009, Ofgem introduced an option within the electricity supply licence to allow for conditional derogation from the requirements under Standard Licence Condition (SLC) 11.2 to be a party to the industry codes – specifically those assessed as presenting the highest cost and highest competency hurdles to accessing the public network and selling electricity to domestic and non-domestic consumers.

This option – which has become known as 'Licence Lite' – was designed to overcome market entry barriers experienced by distributed energy (DE) generators. It allows either prospective or licensed electricity suppliers to apply for an electricity supply licence and a direction relieving them of their obligation to be a direct party to the SLC 11.2 Codes. In order to issue such a direction, we require robust alternative arrangements to be in place for a third party licensed supplier (TPLS) to discharge code compliance in these areas on their behalf. These arrangements serve to ensure market functioning/integrity and consumer protection.

Since the introduction of the Licence Lite guidance no parties have applied for a direction. One potential reason is a lack of clear understanding amongst aspiring suppliers over the precise functioning of a Licence Lite arrangement and the balance of responsibilities between parties. In addition, since 2009 there have been a number of strategic, legislative and regulatory changes to the energy supply and retail market which may have compounded market uncertainty.

A number of parties are now expressing renewed interest in Licence Lite, and this interest – taken together with the need to update and clarify the 2009 guidance to reflect changes in the market – provides a clear rationale for this consultation.

Although Licence Lite is designed to address barriers experienced by DE generators, we are also receiving interest from 'non-traditional' business models seeking opportunities to enter the energy supply market. Whilst Licence Lite can be seen as part of our broader efforts to enable innovation, reduce regulatory burdens, create more choice and enable greater competition, we focus in this consultation on updates and clarifications to the 2009 guidance only.

Consequently, we are not proposing fundamental changes to the scope, intention or arrangements of the original policy. We do, however, set out a series of proposed updates to the three main components of the 2009 guidance:

- Main industry functions, activities and expectations
- Compliance and enforcement issues
- Application procedures and assessment criteria.

We are now consulting on these updates in order to clarify our intentions and expectations regarding how a Licence Lite arrangement might operate, and to gather views from industry and wider stakeholders to ensure we bring forward final proposals that work in the interests of consumers.

Following the 8-week consultation period, we will fully consider all responses and issue final guidance as soon as possible.

1. The electricity system & its participants

This chapter describes some of the features of the electricity system and the difficulties that might arise for certain participants. It explains the purpose of Licence Lite in responding to the challenges faced by distributed energy schemes, and sets out the range of options available to parties seeking to enter the retail electricity marketplace.

Licensing and the electricity market

- 1.1. The electricity system represents a complex series of arrangements and relationships for generating, distributing, supplying and consuming power. These are supported by a wide array of actors maintaining the infrastructures necessary for the system's successful and continued operation.
- 1.2. In order to protect consumers and energy system participants, parties seeking to supply electricity (above a certain volume) to consumers are required to obtain an electricity supply licence under the Electricity Act 1989. Ofgem oversees and administers the granting of supply licences in Great Britain, which set out the obligations and terms under which licence holders must operate.
- 1.3. The conditions of the electricity supply licence include a requirement to become party to and comply with a number of detailed multi-party agreements: the industry codes. Both individually and collectively, the codes shape the operation of the electricity sector and, by extension, our ability to deliver competitive markets that best promote and protect the interests of consumers.
- 1.4. These codes define the terms under which industry bodies access the electricity networks and market. They reflect the fact that all participants are part of an interconnected electricity system which needs to be continuously balanced to ensure system and market integrity for all.

What difficulties can arise from this configuration?

- 1.5. Electricity supply licences are designed to ensure that suppliers operate within the electricity market in ways which, amongst other things, support wholesale market trading, deliver system balancing, enable retail competition and deliver consumer protection. While the codes set out detailed rules that govern electricity market operation and the terms for connection and access to the networks, there are ways in which the rules may lead to unintended market entry barriers. These can include:
 - Regulatory costs incurred by complying with some of the industry codes are not scalable and often require substantial up-front

investment and ongoing resourcing which, for small parties, add significant overheads.

- The complexity of the roles that licensees must fulfil to ensure the system's integrity, as these can introduce requirements which may be more challenging for smaller parties: for instance, there are incentives on licensees to be in balance by supplying the amount of power they are contracted to provide. Although the system is designed to correct instances of imbalance, those parties out of balance are charged a premium and the uncertainty of this premium (likelihood and scale) can be particularly difficult for smaller parties to manage.

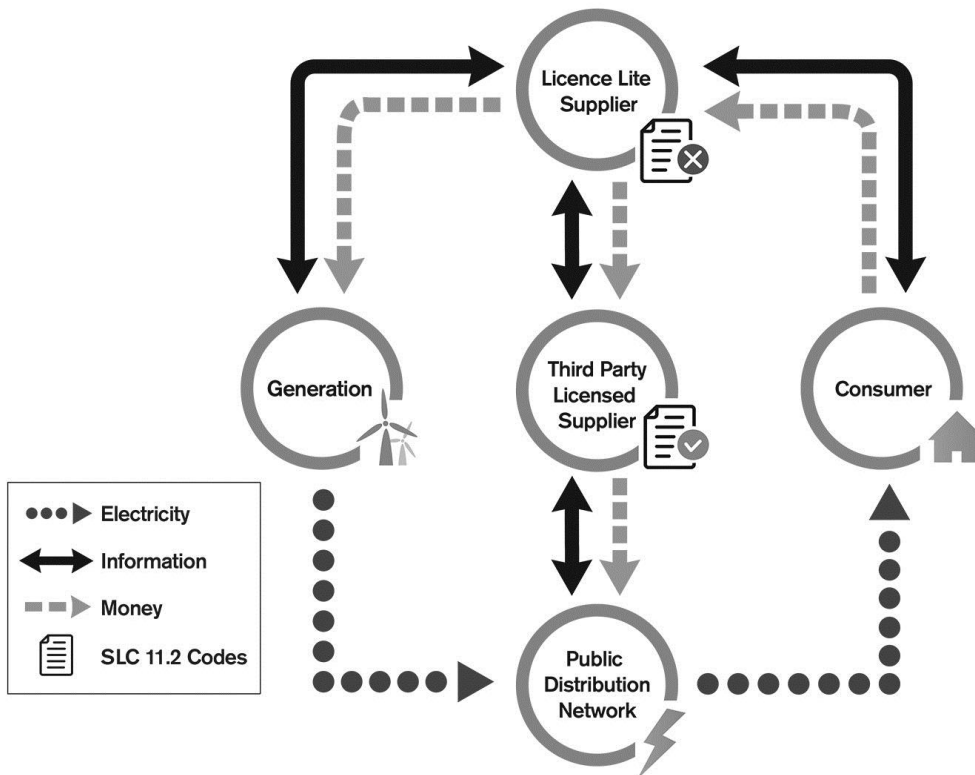
What is Licence Lite?

- 1.6. In 2009 we introduced electricity supply licence Standard Licence Condition (SLC) 11.3, a licensing option which has become known as 'Licence Lite'.¹ It was developed to enable distributed energy (DE)² providers to supply their generation directly to consumers rather than selling it to a third party.
- 1.7. This option was designed to address the disproportionate costs faced by small generators (without plans to expand their supply activities in the future) in supplying energy. Small DE generation units – often sized to meet specific demand – are arguably disadvantaged when faced by the non-scaleable costs of becoming a licensed supplier. In encouraging the emergence of low carbon DE – defined as renewable electricity generation as well as combined heat and power schemes – the policy was also intended to contribute to the government's low carbon energy goals.
- 1.8. The core of a successful Licence Lite arrangement relates to the nature of the relationship and commercial agreements between all involved parties, and the ways in which these agreements enable the Licence Lite supplier to minimise costs, maximise efficiency and control their risk exposure.

¹'Licence Lite' refers to arrangements subject to an SLC 11.3 direction. It is not the official name of this policy, but is used throughout the consultation for ease.

²Distributed energy (DE), also referred to as distributed generation or decentralised energy, is defined in our work as renewable electricity generation which is connected directly into the local distribution network, as opposed to connecting to the transmission network, as well as combined heat and power schemes of any scale.

- 1.9. Licence Lite allows a prospective electricity supplier³ to apply for an electricity supply licence and a direction providing a derogation from the requirement to be a direct party to the industry codes listed in SLC 11.2. However, in order to issue such a direction, we require robust alternative arrangements to be in place for a third party licensed supplier (TPLS) to discharge code compliance in these areas on behalf of the Licence Lite supplier. The high level relationships between parties in a Licence Lite arrangement are illustrated below:



- 1.10. The analysis which led to the development of Licence Lite revealed that the codes in question involve high-cost and high-competency requirements, and represent a main barrier to parties considering applying for a supply licence. Details of the original analysis and proposals which lead to the development of Licence Lite can be found in: "Distributed Energy –Final Proposals and Statutory notice for Electricity Supply Licence Modification", February 2009. ⁴

The relevant codes are listed in SLC 11.2:

- Master Registration Agreement (MRA)⁵
- Distribution Connection and Use of System Agreement (DCUSA)⁶

³As Licence Lite is a non-discriminatory measure, already licensed electricity suppliers can also apply for a direction. However, the guidance we provide generally assumes that applicants are simultaneously applying for a supply licence and SLC 11.3 direction.

⁴<https://www.ofgem.gov.uk/ofgem-publications/58104/definalproposals.pdf>

⁵<http://mrasco.com/>

⁶<http://dcusa.co.uk>

- Connection and Use of System Code (CUSC)⁷
- Balancing and Settlement Code (BSC).⁸

How light is Licence Lite?

- 1.11. The specific intention of this licensing option is to address the potential barriers faced by DE entrants in meeting those high-cost, high-competency elements of the supply licence. It was also designed to enable these entrants in a way which benefits the entire electricity system by ensuring market and system integrity and protecting the interests of consumers.
- 1.12. It is not intended to (and does not) relieve any other obligations facing the aspiring supplier, who is required to comply with all other parts of the supply licence and obligations in interacting with the wider electricity market (such as maintaining access to reliable generation load / ability to procure power, and maintaining adequate consumer management, information and billing processes).
- 1.13. Although Licence Lite is designed to address barriers experienced by DE generators, we are also receiving interest from 'non-traditional' business models seeking opportunities to enter the energy supply market. For those parties seeking other arrangements, a range of alternative market options exist. For clarity (and to distinguish them from Licence Lite arrangements), these alternatives are set out below.

Engagement with the electricity market

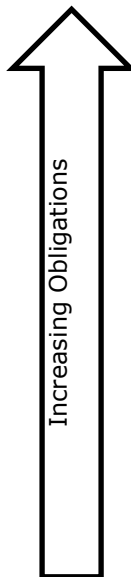
- 1.14. Within existing market and regulatory arrangements, there are a range of options available to parties seeking to supply consumers with energy,⁹ each of which has different features and obligations. For DE schemes there is another option which involves selling their power to a third party in the wholesale market, but this does not include a direct retail consumer relationship.
- 1.15. The examples below represent the range of options open to parties wishing to supply energy to consumers.

⁷<http://www2.nationalgrid.com/uk/industry-information/electricity-codes/cusc/the-cusc/>

⁸<http://www.elexon.co.uk/bsc-related-documents/balancing-settlement-code/>

⁹Parties seeking to supply electricity to a consumer may control generation assets and/or possess no physical assets and instead operate in a trading capacity (purchasing 'packets' of electricity from generators and re-selling at a premium). Please note, however, that white labels market but do not supply electricity to consumers.

Type of Engagement	Characteristics	Market Interactions
Licensed electricity supplier	Supplying electricity as a licensed supplier	Full retail market Full supply obligations
Licence Lite supplier	Supplying electricity to consumers in the retail market via a commercial agreement with another licensed supplier	Full retail market Full supply obligations (except SLC 11.2 Codes)
Exempt supplier ¹⁰	Supplying electricity (up to exemption threshold) via the public distribution network	Partial retail market Limited supply obligations
Private wire ¹¹	Selling electricity to a single consumer via a privately built and operated network	Partial retail market Limited supply obligations



1.16. White labels offer another route to the retail market. A white label is an organisation that works in partnership with a licensed partner supplier to offer tariffs under the white label brand. The white label is not, therefore, involved in electricity supply and so is presented separately.

White label ¹²	Marketing electricity to consumers through a partnership with an existing licensed supplier	Full retail market Partner supplier holds supply obligations
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1.17. A prospective supplier's circumstances and commercial ambitions will determine its preferred approach to consumer engagement and, if appropriate, supplying electricity. There is, in turn, a direct relationship between these considerations and the regulatory arrangements the supplier will ultimately be subject to.

1.18. Licence Lite may be the most appropriate arrangement for parties when electricity supply is outside their core business and they have limited access to the necessary finance or technical expertise to meet the full terms of a supply licence.

¹⁰Supply (and generation) exemptions are available as set-out in the government's Electricity (Class Exemptions from the Requirement for a Licence) Order 2001. In terms of electricity supply, suppliers do not need a licence if they are supplying electricity they have generated themselves and are supplying no more than 5MW in total, of which no more than 2.5MW can be supplied to domestic customers, roughly corresponding to 2,500 domestic customers.

¹¹The term 'private wire' is often used as shorthand for a direct and exclusive connection between a consumer and a generating station that is not on the same site. The term has specific connotations in the context of the electricity system, being associated with small distribution networks and exemptions from the need to hold electricity licenses.

¹²The white label's partner supplier is responsible for ensuring compliance with electricity supply licence conditions in respect of the white label.



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- 1.19. We acknowledge, however, that various stakeholders may be uncertain over the necessary stages in applying for an SLC 11.3 direction and the points of interaction with the regulator. To help address these areas, we have developed an applicant journey to illustrate the overall process and highlight critical stages – see Annex 2.

2. Rationale for updating the 2009 guidance

This chapter explains that the guidance is being revised to provide clarity about our intentions and expectations regarding Licence Lite arrangements, and to update issues unresolved in the original guidance. It also reflects changes in the policy and regulatory environment which are likely to influence potential Licence Lite business models.

- 2.1. When the option that provides for the Licence Lite arrangement was put in place, we also published draft guidance. However, at that time there were some issues that had not been fully resolved, such as arrangements in the event of the Licence Lite/third party licensed supplier (TPLS) relationship breaking down, and uncertainty over whether a market in TPLS services would emerge. Originally, these issues were intended to be explored and solutions put forward by an industry-led forum¹³. In the absence of any Licence Lite applications, however, the forum was never convened.
- 2.2. Since 2012, we have seen a significant increase in interest in Licence Lite and are currently engaged with a number of stakeholders with developed plans. Notwithstanding its DE origins, this interest has revealed a range of parties exploring different supplier models.
- 2.3. As the first Licence Lite application is likely to be processed in late 2014, there are clear benefits to clarifying our intentions and expectations in this area, and providing updates to relevant sections of the 2009 guidance.
- 2.4. This chapter summarises the main developments since 2009 that affect Licence Lite; their implications are explored more fully in chapter 3.

Developments – consumer protection and the retail market

- 2.5. As set out in paragraphs 1.14-1.18 there are a range of options available to parties seeking relationships with retail consumers. While the white label and exempt supplier options have existed since before the original guidance was published in 2009, there have been subsequent developments which might be of interest to potential Licence Lite suppliers:
 - The Retail Market Review (RMR) looked at ways to make the energy market simpler, clearer and fairer. In the RMR statutory consultation we said that we would give further consideration to the right regulatory

¹³Licence Lite 2009 proposals -<https://www.ofgem.gov.uk/ofgem-publications/58104/definalproposals.pdf>

framework for white labels. A white label works in a partnership with a licenced 'partner supplier' to offer tariffs under the white label brand. At the time of writing we are consulting on our proposals to accommodate white labels in the regulatory framework.

- The introduction of the Electricity and Gas (Internal Markets) legislation 2011 (transposing the EU's Third Internal Energy Package into UK law) mean that consumers served by licence exempt supply undertakings (irrespective of size) now enjoy many of the domestic consumer protection measures available to customers of licensed electricity suppliers (such as the time limit for switching between suppliers).

Developments – new supplier obligations

2.6. The transition to a low carbon energy system not only requires significant investment in new generation capability, but the evolution of our electricity system to one that is at the same time more complex, more integrated and more flexible. To achieve this transition, a number of new obligations have been introduced which may impact on a prospective Licence Lite supplier:

- Smart meters will play a key role in enabling this transition. To enable the deployment of 53 million new meters by 2020 a new Smart Energy Code (SEC) has been introduced. It is a requirement of the electricity supply licence (SLC 48.1) that suppliers¹⁴ comply with the Code. Full details of the SEC and the roles and responsibilities it places on suppliers are available from the Smart Energy Code Company.¹⁵
- In response to the challenges of climate change, the low carbon transition and to protect at-risk consumers, a number of new social and environmental programmes have been introduced by government which place obligations on suppliers. The specific features of the obligations vary, but are typically triggered by suppliers' customer numbers and/or sized according to market share, and impose a range of functions on suppliers: eg information provision, making payments to consumers, statutory bodies and service providers, and installing energy efficiency measures. In some cases, while a supplier may not be required to participate in a scheme, they can seek to join voluntarily. Examples of the programmes that have been introduced include: the Energy Companies Obligation (ECO),¹⁶ the Renewables Obligation (RO),¹⁷ the Climate Change Levy (CCL),¹⁸ the Warm Home

¹⁴As per SLC 48, suppliers subject to the SEC include those supplying electricity to Domestic Premises or Designated Premises. Designated Premises means a Non-Domestic Premise at which a metering point falls within profile class 1, 2, 3 or 4 as defined in the Balancing and Settlement Code (as of 30 November 2012).

¹⁵<https://www.smartenergycodecompany.co.uk/sec/about-the-sec>

¹⁶<https://www.ofgem.gov.uk/environmental-programmes/energy-companies-obligation-eco>

¹⁷<https://www.ofgem.gov.uk/environmental-programmes/renewables-obligation-ro>

¹⁸http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageExcise_InfoGuides&propertyType=document&id=HMCE_CL_001174

Discount (WHD),¹⁹ Feed-in Tariffs (FITs),²⁰ the Government Electricity Rebate (GER),²¹ the Electricity Market Reform (EMR)²² and the Green Deal (GD).²³

Developments – new market entrants and interest in Licence Lite

2.7. As explained earlier, the rationale for the creation of Licence Lite was to allow DE developers to supply their generation directly to consumers rather than selling it to a third party. Since 2009 we have seen the emergence of a range of new actors and business models facing similar considerations as DE. In some cases these include licensing considerations, in others not. Some of these potential new entrants are expressing interest in Licence Lite:

- Analysis undertaken as part of the RMR revealed a diverse range of Third Party Intermediaries (TPIs) offering advice and products to domestic and business consumers, such as assisting with energy procurement, efficiency and management. We expect the TPI market to evolve and proliferate. Mindful of the potential benefits and risks this poses we are taking forward a number of measures designed to improve TPI services and enhance consumer experiences.²⁴ Looking forward it is anticipated that TPIs could have an increasingly important role to play in facilitating consumer engagement and (potentially) providing a route to market for energy suppliers.
- Policy interest in the role of local authorities working singularly or collaboratively at a range of spatial scales has grown considerably with increasing interest not just in generating heat and power, but adding to an authority's existing consumer-facing services by supplying electricity.
- In January 2014, DECC published the Community Energy Strategy²⁵ illustrating an emerging sector active across a range of energy activities. By way of generation, DECC considers that the sector "could deliver 3GW of solar PV, onshore wind and hydro projects by 2020,

¹⁹<https://www.ofgem.gov.uk/environmental-programmes/warm-home-discount>

²⁰<https://www.ofgem.gov.uk/environmental-programmes/feed-tariff-fit-scheme>

²¹<https://www.gov.uk/government/consultations/government-electricity-rebate>

²²<https://www.gov.uk/government/policies/maintaining-uk-energy-security--2/supporting-pages/electricity-market-reform>


²³<https://www.gov.uk/green-deal-energy-saving-measures>

²⁴More information about the TPI programme and consultations about arrangements in the domestic and non-domestic markets are available at:

<https://www.ofgem.gov.uk/electricity/retail-market/market-review-and-reform/third-party-intermediaries-tpi-programme>

²⁵Community energy is defined as "community projects or initiatives focused on reducing energy use, managing it better, generating energy or purchasing it". This includes communities of place and communities of interest; projects share an emphasis on community ownership, leadership and control with distinct community benefits.

<https://www.gov.uk/government/publications/community-energy-strategy>



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representing 14% of the total capacity of these technologies and 1.4% of total electricity consumption by the end of this decade".²⁶ While the vast majority of projects are generation focused, many aspire to integrated approaches to energy generation, management, reduction and purchasing, and are looking at the potential of supplying electricity locally.

- 2.8. Related to the developments above, we are also aware of increasing stakeholder interest in the potential of Licence Lite as a mechanism to enable the development of 'local' energy markets (generally understood to encapsulate matters such as local supply, trading and balancing).

²⁶https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/274746/20140108_Community_Energy_Modelling_FinalReportJan.pdf

3. Consultation areas and proposed changes

We are updating the Licence Lite guidance to reflect policy and regulatory changes since 2009 and to set out more detail about how we expect it to work in practice. The clarifications relate to the industry functions, compliance issues and application process. Our consultation focusses on particular issues within those topics and asks whether the proposed guidance is sufficiently clear and comprehensive.

- 3.1. The fundamental characteristics of a Licence Lite arrangement, as set out in paragraphs 1.6-1.10, remain unchanged since we published draft guidance in 2009: we are not changing our position on any material points. However, we believe that the guidance could usefully be updated to reflect the changes to market conditions outlined in chapter 2.
- 3.2. In addition, experience with prospective Licence Lite suppliers has revealed certain points on which revised guidance could provide clarity. The proposed changes to the guidance, presented in this chapter, therefore aim to update and clarify the 2009 guidance. The proposed guidance (presented in Annex 1) has also been restructured to allow us to incorporate a wider range of issues.
- 3.3. This chapter sets out positions which are broadly applicable to different Licence Lite approaches. However, specifics will vary depending on a prospective supplier's circumstances and applicants should seek legal advice on their obligations.

Consultation scope

- 3.4. Section 3.4 sets out our rationale for each proposed alteration, the details of the specific changes and a cross-reference to where they can be found in the guidance, and any associated questions. We welcome feedback from stakeholders on whether the proposed guidance adequately clarifies how to apply for Licence Lite and how we expect arrangements to work in practice.

Question 1: *Are further clarifications regarding the functioning of a Licence Lite arrangement required from the regulator, and if so, in what areas?*

- 3.5. The key changes in the proposed guidance (when compared against the 2009 draft guidance) are set out below.

Main component of 2009 guidance	Content description	Changes in proposed guidance
Main industry functions and activities	Table summarising Licence Lite supplier and TPLS roles, for example regarding meter registration, arranging a use of system arrangement and facilitating supplier transfer.	Scenario-specific table exchanged for a principles-based description. Specific clarifications regarding the Smart Energy Code, social and environmental programme compliance, and the balance of responsibilities between the two parties.
Procedures and criteria	Note of eligible applicants, the minimum information required to form an application, and a high-level sense of the criteria we will apply and the procedures we will follow when assessing applications.	Further detail on all points.
Compliance and enforcement issues	Our expectations regarding SLC 11.3 compliance, and the situations in which we may take enforcement action or revoke a Licence Lite supplier's licence.	More detail on how we anticipate Licence Lite arrangements working in practice, with additional detail on certain scenarios such as supplier of last resort.

Changes to main industry functions and activities

- 3.6. Below we set out the rationale for the most significant proposed changes to the 'main industry functions and activities' content, and invite your views.

Balance of responsibilities

- 3.7. The 2009 guidance sets out our intention that the Licence Lite supplier would be issued with and expected to comply with the conditions of an SLC 11.3 direction, based on the Authority being satisfied with the arrangements in place between the Licence Lite supplier and a TPLS.
- 3.8. Under the terms of the direction referred to above, the Licence Lite supplier is relieved of the obligation to be a party to and comply with the SLC 11.2 Codes on the condition that there are robust arrangements with a TPLS in place.
- 3.9. Under these arrangements, the TPLS would be responsible for complying with the SLC 11.2 Codes. Whilst this is already a condition of their existing supply

licence, given the novel nature of an SLC 11.3 direction it is important for reasons of transparency, commercial negotiation and ultimately enforcement for all parties to be aware that our intention is that the TPLS would bear the responsibility for any breaches of the SLC 11.2 Codes in connection with the Licence Lite supplier's activities as well as its own.

- 3.10. In most instances the commercial agreement between parties would contain break clauses, business continuity provisions and performance penalties, which would include mechanisms for dispute resolution. We would also expect both parties to engage with industry governance and dispute resolution processes in the event of a code breach; however, a sufficiently serious breach may still arise which warrants us taking enforcement action against the responsible supplier, which in this case is the TPLS.²⁷ It is therefore important that this balance of responsibilities is clear prior to and during the formulation of the commercial agreement between the two parties.
- 3.11. We acknowledge that alternative approaches to clarifying the balance of risks and (dis)incentives amongst parties exist – these include:
- The modification of an individual TPLS's licence, to make the regulatory basis of the obligation set out above explicit²⁸
 - A wholesale modification to all suppliers' licences, rather than modifying them individually as they enter into agreements with Licence Lite suppliers.²⁹
- 3.12. However, we believe that the proposed guidance (see Annex 1) is sufficiently clear regarding each supplier's obligations, and that modifying the TPLS' licence to make these obligations explicit would be disproportionate at this stage.

Question 2: *Do you agree that our position over the balance of responsibilities and regulatory obligations is: a) sufficiently clear to allow parties confidence to enter into commercial agreements, and b) a proportionate approach?*

Smart Energy Code

- 3.13. To enable the deployment of smart meters, the Smart Energy Code (SEC) came into effect in September 2013 under the Data and Communications Company (DCC) Licence. Full details of the SEC and the roles and

²⁷Decisions on enforcement action are taken in line with Ofgem's Enforcement Guidelines: <https://www.ofgem.gov.uk/ofgem-publications/89753/enforcementguidelines12september2014publishedversion.pdf>

²⁸Whilst we would not expect this modification to be burdensome, as the TPLS will already be complying with SLC 11.2 under its existing supply licence, this approach may potentially disincentivise TPLSs from offering services.

²⁹This approach may serve to increase the size of the readily-available market for TPLS services, potentially reducing the cost of those services, but this may represent a disproportionate approach given the current levels of market interest.

responsibilities it places on electricity suppliers³⁰ are available from the Smart Energy Code Company.³¹

- 3.14. DECC are responsible for preparing the SEC and bringing it into legal effect. Much of that code has been introduced and is legally in force. A further tranche was consulted upon in summer 2014 and is expected to be in effect by March 2015. There is likely to be a need for some additional content, particularly to address issues arising from testing or in the light of the experience of operating smart meters through the DCC.
- 3.15. We expect that some Licence Lite suppliers may want to make use of the opportunities that smart meters offer and will therefore wish to access the DCC services. To do this, they may need to accede to the SEC.
- 3.16. As this obligation was not in place when the 2009 guidance was published, stakeholders have queried whether it will be included in the Licence Lite direction alongside the SLC 11.2 Codes. The obligation for electricity suppliers to comply with the SEC sits in SLC 48.1 of the electricity supply licence, and as such is not subject to a direction under SLC 11.3 which only refers to SLC 11.2. As set out in paragraphs 1.39-1.41 of Annex 1, any Licence Lite supplier will still be bound by the terms of SLC 48, and so required to comply with the SEC. However prospective applicants may wish to note that they may apply (under SLC 48.2) for relief from the requirement to comply with the SEC.
- 3.17. We will consider any application for a derogation under SLC 48.2 on a case by case basis. The uncertainty over the scope of the SEC and the role a third party will play in relation to smart meters will be a significant factor affecting our ability to grant a derogation at this stage.
- 3.18. The two processes (derogation under SLC 48.2 and direction under SLC 11.3) would be dealt with separately. However, where circumstances allow, we would endeavour to process the applications simultaneously.

Question 3: *Do the Licence Lite arrangements relating to the Smart Energy Code – as set out in this consultation and in paragraphs 1.39-1.41 of the proposed guidance – provide sufficient clarity over roles and compliance obligations between parties?*

Electricity Market Reform (EMR)

- 3.19. The development of the EMR programme has introduced a number of new requirements for electricity suppliers. The specific responsibilities of suppliers

³⁰As per SLC 48, suppliers subject to the SEC include those supplying electricity to Domestic Premises or Designated Premises. Designated Premises means a Non-Domestic Premise at which a metering point falls within profile class 1, 2, 3 or 4 as defined in the Balancing and Settlement Code (as of 30 November 2012).

³¹<https://www.smartenergycodecompany.co.uk/sec/about-the-sec>

are detailed in secondary regulations and summarised in DECC's Implementing EMR handbook.³² As set out in paragraphs 1.42-1.46 of Annex 1, the Licence Lite supplier will be responsible for discharging its responsibilities under EMR and responding to communications from the newly created government companies that will manage EMR, such as the Low Carbon Contracts Companies for Contracts for Difference (CfDs) and the Electricity Settlements Companies for the Capacity Market (CM).

- 3.20. In particular, the information management and payment model requirements (including collateral arrangements) placed on suppliers require regular oversight, management and implementation necessitating the regular and timely receipt of information and analysis of information from the TPLS. Alternatively, the Licence Lite supplier may wish to consider a commercial relationship with their TPLS or another third party to administer the EMR responsibilities on their behalf, but in choosing to do so would nonetheless retain the regulatory obligations.

Question 4: *Do the Licence Lite arrangements relating to the Electricity Market Reform – as set out in this consultation and in paragraphs 1.42-1.46 of the proposed guidance – provide sufficient clarity over roles and compliance obligations between parties?*

Social and environmental programmes

- 3.21. As outlined in paragraph 2.6, since the 2009 guidance was published a number of social and environmental programmes have been introduced by government to support at-risk consumers and facilitate the transition to a low carbon energy system. Examples of these programmes are listed in the table below.

³²[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/324176/Implementing Electricity Market Reform.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/324176/Implementing_Electricity_Market_Reform.pdf)

Programme	Overview
Climate Change Levy (CCL) ³³	a tax on UK business energy use with exemptions for generation procured from renewable sources.
Energy Companies Obligation (ECO) ³⁴	installation of energy efficiency measures.
Feed-in Tariffs (FITs) ³⁵	obligation to make tariff payments on generation/export of renewable electricity.
Government Electricity Rebate (GER) ³⁶	all suppliers to make specified rebate payments to domestic consumers (subsequently reimbursed by government).
Green Deal (GD) ³⁷	installation and payment administration of energy efficiency measures.
Renewables Obligation (RO) ³⁸	obligation to source supply from renewable sources.
Warm Home Discount (WHD) ³⁹	support to fuel poor consumers.

3.22. These programmes place service delivery and reporting requirements on suppliers, and stakeholders have queried whether those obligations would fall to a Licence Lite supplier or a TPLS under a Licence Lite arrangement. As the Licence Lite supplier is supplying electricity to the end user, and is therefore the 'licensee' for the purposes of these obligations, we would require a Licence Lite supplier to comply with the obligations noted above and any others that come into force, as indicated in paragraph 1.42 of Annex 1.

3.23. Where an obligation is triggered by a threshold of consumer numbers (or sized on the basis of the suppliers' market share), the consumer/supply data of the Licence Lite supplier is applied separately and not conflated with the TPLS' customer numbers. Conversely, Licence Lite suppliers have the same facility as any other licensed supplier to choose to participate in a scheme on a voluntary basis where this is accommodated by individual obligations, independent of the obligations on their TPLS.

³³

http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageExcise_InfoGuides&propertyType=document&id=HMCE_CL_001174

³⁴<https://www.ofgem.gov.uk/environmental-programmes/energy-companies-obligation-eco>

³⁵<https://www.ofgem.gov.uk/environmental-programmes/feed-tariff-fit-scheme>

³⁶<https://www.gov.uk/government/consultations/government-electricity-rebate>

³⁷Licensed electricity suppliers are obligated to deliver Green Deal requirements when they supply to at least 250,000 consumers. Suppliers have to accede to the Green Deal Arrangements Agreement (GDAA) - <http://gdorb.decc.gov.uk/>

³⁸<https://www.ofgem.gov.uk/environmental-programmes/renewables-obligation-ro>

³⁹<https://www.ofgem.gov.uk/environmental-programmes/warm-home-discount>

- 3.24. Although we require the Licence Lite supplier to comply with the obligations, some of the functions require data acquired from compliance with the industry codes (eg the BSC and MRA). Prospective Licence Lite suppliers may therefore wish to consider what features of their agreement with a TPLS will ensure that, for example:
- Its consumers are separately identifiable from those of the TPLS (and any other parties the TPLS is working with on a commercial supply or other basis) to identify where obligations reside
 - data held by the TPLS can be accessed readily and promptly to ensure compliance with, for example, the reporting, communication and financial requirements of the obligations
 - its consumer data is sufficiently comprehensive to enable analysis and reporting according to, for example, consumer type (domestic or non-domestic), location, fuel type and consumer characteristics.
- 3.25. Alternatively, the Licence Lite supplier may wish to consider a commercial relationship with their TPLS or another third party to administer the social and environmental programmes on their behalf, but in choosing to do so would nonetheless retain the regulatory obligations.

Question 5: *Do the Licence Lite arrangements relating to the government's social and environmental programmes – as set out in this consultation and in paragraphs 1.42-1.46 of the proposed guidance – provide sufficient clarity over roles and compliance obligations between parties?*

Changes to compliance and enforcement issues

- 3.26. Below we set out the rationale for the most significant proposed changes to the compliance and enforcement issues content, and invite your views.

Market Participant Identifier

- 3.27. We have identified a number of situations in which it will be important to be able to identify sites supplied by the Licence Lite supplier on the TPLS' systems, for example to accurately assign environmental and social obligations, and to be able to distinguish sets of customers for the purposes of a Last Resort Supply Direction. We therefore propose to require that a Licence Lite supplier's customers be uniquely identifiable within the central Meter Point Administration Service (MPAS) systems, and therefore by default on their TPLS's systems. This expectation is set out in paragraph 1.17 of Annex 1, with further explanation provided in paragraphs 1.35-1.36.

- 3.28. The 2009 guidance notes that the TPLS may choose to register the Licence Lite supplier with a unique Market Participant Identifier (MPID). MPIDs, also referred to as Supplier IDs, are a unique four character code by which a party is identified by the Supplier Meter Registration Service and for the purposes of settlement volume allocation. The Balancing and Settlement Code (BSC) limits the number of MPIDs to no more than three for which the supplier is the first holder of the ID. Suppliers may have additional MPIDs where they have been transferred from another supplier pursuant to the BSC.
- 3.29. There are no apparent regulatory barriers to identifying Licence Lite consumers on the MPAS systems by establishing a separate MPID for the Licence Lite supplier's portfolio. However, some suppliers may not have remaining MPIDs to offer. If necessary, one option to resolve this issue would be a modification to the BSC to allow additional MPIDs for this purpose. This modification would likely take several months to put in place, although it should be noted that modification timescales can vary depending on the complexity of the change.

Question 6: *Does the potential impact of the MPID restriction warrant a modification to the Balancing and Settlement Code?*

Question 7: *Are there any complications (not identified above) to uniquely identifying a Licence Lite supplier's customers on central systems?*

Supplier of Last Resort

- 3.30. The 2009 guidance does not address the question of what happens to electricity consumers in the event that either the Licence Lite supplier or the TPLS fails. Stakeholders have requested clarity on this issue. Our position is set out below, and in paragraphs 1.60-1.61 of Annex 1.
- 3.31. In the event of a supplier failure, our priority is to ensure that consumers continue to receive electricity from a licensed supplier. If a supplier were to fail an administrator may seek to facilitate a trade sale of the business. We consider that this is generally more desirable than regulatory intervention. However, in the event that a trade sale is not achieved, we would expect to appoint a Supplier of Last Resort (SoLR), as set out in our revised guidance on the Supplier of Last Resort arrangements.⁴⁰
- 3.32. If a Licence Lite supplier were to fail, we would anticipate a deemed contract arising between the Licence Lite customers and the TPLS.
- 3.33. If the TPLS were to fail and a trade sale was not achieved by the administrator, we would expect to assign the Licence Lite supplier's customers

⁴⁰<https://www.ofgem.gov.uk/ofgem-publications/59624/solrrevisedguidance-december2008.pdf>

to an SoLR.⁴¹ This minimises both the impact of supply failure to consumers of the Licence Lite supplier, and the scale of network and energy balancing costs that would be picked up by other system users and passed through to other consumers.

- 3.34. Where a TPLS failed and the Licence Lite supplier's customers have been moved to an SoLR, the Licence Lite supplier could attempt to secure a new TPLS and then seek to re-contract with these customers; however, this scenario increases the risk to a Licence Lite supplier's business model (see paragraph 1.57 of Annex 1).
- 3.35. Options to reduce this risk could include establishing backstop measures, such as one or more TPLSs which could be called upon at short notice to provide SLC 11.2 Code compliance services. These measures could be established on a commercial basis between parties (agreed in advance) or placed on a regulatory footing as a requirement on all suppliers to offer commonly-agreed services if approached.
- 3.36. However, we question whether establishing these measures either on an industry-wide basis or as part of individual Licence Lite suppliers' commercial arrangements would be proportionate given the current levels of market interest.

Question 8: *Are the risks to Licence Lite suppliers inherent in the current operation of supplier of last resort arrangements in the event of TPLS failure sufficient to justify backstop measures, and if so, what measures would be appropriate and why?*

Changes to procedures and criteria

- 3.37. Below we set out the rationale for the most significant proposed changes to the procedures and criteria content, and invite your views.

Application information required

- 3.38. Due to the policy context from which Licence Lite arose,⁴² there are places in which the 2009 draft guidance refers specifically to arrangements suited to distributed energy (DE) generators. As outlined in paragraph 1.13, we are

⁴¹On the basis of SLC 7.1, which states that "Each Contract and Deemed Contract for the supply of electricity to a premises must provide for itself to end when a Last Resort Supply Direction given to any other Electricity Supplier has effect in relation to that premises". The Supplier of Last Resort direction would therefore incorporate all of the sites that it was managing in central systems, including those that it managed on behalf of the Licence Lite supplier.

⁴²See 2009 final proposals: <https://www.ofgem.gov.uk/ofgem-publications/58104/definalproposals.pdf>

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now aware that non-DE prospective suppliers may consider Licence Lite to be a route to market.

- 3.39. The 2009 guidance states that an application should include a statement of "the number and type of any generation units that will be used to supply electricity" and a "maintenance schedule of generation units", which may only be relevant to DE applicants. We therefore propose to remove these items from the list of minimum information required in order to accommodate a wider range of applicants.
- 3.40. In some other respects we have broadened the range of information required in order to ensure consumer interests are protected in all cases. The information we require to form a complete Licence Lite application is explored in further detail in paragraphs 1.10-1.21 of Annex 1.

Question 9: *Is the information required for a Licence Lite application appropriate for all potential applicants?*


Process

- 3.41. The 2009 guidance states that we will not start to assess an application until all information has been submitted, that we will agree timescales with individual applicants where further information is required, and that where required we will consult with industry on issuing a direction for at least 28 days. As part of the guidance update, paragraphs 1.22-1.29 of Annex 1 set out the process of a Licence Lite application in more detail. Where possible and appropriate (and in order to facilitate simultaneous licence and direction applications) we have sought to align it with the processes of a supply licence application.
- 3.42. Furthermore, in Annex 2 we have set out the steps involved in applying for a Licence Lite direction.

Question 10: *Are there any relevant milestones which are omitted from the proposed guidance?*

Consultation process and next steps

- 3.43. We are publishing this revised guidance for consultation. The deadline for views is 5 December 2014.
- 3.44. All responses should be sent to Kate Thompson, Ofgem, 9 Millbank, London SW1P 3GE or by email to sustainable.energy@ofgem.gov.uk. Any responses which you do not wish to be published should be marked as confidential.



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- 3.45. We also intend to host a stakeholder event during the consultation, to discuss our proposed approach and gather views. This will be on 7 November.⁴³ If you would like to attend the event, please contact sustainable.energy@ofgem.gov.uk.
- 3.46. After the consultation has closed, we will consider all responses and are aiming to publish final guidance as soon as possible.
- 3.47. We may revisit the arrangements set out in the guidance if there are material changes to the industry context or if suppliers' experience reveals the need for further guidance.
- 3.48. Through our ongoing market monitoring and supplier engagement activities, we intend – particularly in the early stages of Licence Lite adoption - to invite Licence Lite suppliers and their TPLS partner to periodic compliance and evaluation sessions, so as to actively monitor the working of the arrangements and gather useful 'lessons learnt'.
- 3.49. In this instance we do not think an Impact Assessment is necessary or appropriate. In making this decision we have considered section 5A Utilities Act 2000 and our own Impact Assessment Guidance.⁴⁴ The proposed guidance does not involve a major change in the activities of the Authority, or have significant impacts on the environment, general public, gas or electricity market participants or those engaged in related commercial activities. The proposed guidance represents an update to arrangements already in place, and the impact of these arrangements on any industry participant other than those voluntarily engaged in the Licence Lite agreement would be limited. We will therefore not conduct a formal impact assessment unless provided with evidence that it is appropriate for us to do so.

⁴³Further information available here: <https://www.ofgem.gov.uk/event/licence-lite-consultation-workshop>

⁴⁴<https://www.ofgem.gov.uk/publications-and-updates/impact-assessment-guidance>

Consultation Questions

Question 1: *Are further clarifications regarding the functioning of a Licence Lite arrangement required from the regulator, and if so, in what areas?*

Question 2: *Do you agree that our position over the balance of responsibilities and regulatory obligations is: a) sufficiently clear to allow parties confidence to enter into commercial agreements, and b) a proportionate approach?*

Question 3: *Do the Licence Lite arrangements relating to the Smart Energy Code – as set out in this consultation and in paragraphs 1.39-1.41 of the proposed guidance – provide sufficient clarity over roles and compliance obligations between parties?*

Question 4: *Do the Licence Lite arrangements relating to the Electricity Market Reform – as set out in this consultation and in paragraphs 1.42-1.46 of the proposed guidance – provide sufficient clarity over roles and compliance obligations between parties?*

Question 5: *Do the Licence Lite arrangements relating to the government's social and environmental programmes – as set out in this consultation and in paragraphs 1.42-1.46 of the proposed guidance – provide sufficient clarity over roles and compliance obligations between parties?*

Question 6: *Does the potential impact of the MPID restriction warrant a modification to the Balancing and Settlement Code?*

Question 7: *Are there any complications (not identified in the consultation) to uniquely identifying a Licence Lite supplier's customers on central systems?*

Question 8: *Are the risks to Licence Lite suppliers inherent in the current operation of supplier of last resort arrangements in the event of TPLS failure sufficient to justify backstop measures, and if so, what measures would be appropriate and why?*

Question 9: *Is the information required for a Licence Lite application appropriate for all potential applicants?*

Question 10: *Are there any relevant milestones which are omitted from the proposed guidance?*

References

DECC Community Energy Strategy

<https://www.gov.uk/government/publications/community-energy-strategy>

Electricity Act 1989

<http://www.legislation.gov.uk/ukpga/1989/29/contents>

Electricity Supply Standard Licence Conditions

<https://epr.ofgem.gov.uk//Content/Documents/Electricity%20Supply%20Standard%20Licence%20Conditions%20Consolidated%20-%20Current%20Version.pdf>

License Lite 2009 proposals

<https://www.ofgem.gov.uk/ofgem-publications/58104/definalproposals.pdf>

Smart Energy Code

<https://www.smartenergycodecompany.co.uk/sec/about-the-sec>

Annex 1 – Proposed revised 'Licence Lite' guidance

Licence Lite

1.1. In order to protect consumers and energy system participants, parties seeking to supply electricity (above a certain volume) to consumers are required to obtain an electricity supply licence. We oversee and administer the granting of supply licences in Great Britain, which set out the obligations and terms under which licence holders must operate.

1.2. Alongside the licences are a number of industry codes, which define the terms under which industry participants can access the public distribution network and participate in the electricity market.

1.3. However, regulatory costs incurred by complying with some of the industry codes are not scalable and often require substantial up-front investment and ongoing resourcing which, for small parties, add significant overheads.

1.4. In 2009 we introduced electricity supply Standard Licence Condition (SLC) 11.3, an option known as 'Licence Lite'.⁴⁵ It was developed to enable Distributed Energy (DE)⁴⁶ providers to supply their generation directly to consumers rather than selling it to a third party. It was designed to help relieve the potential barriers faced by distributed energy (DE) generators in meeting those high cost and high competency elements of the supply licence.

1.5. Licence Lite allows a prospective electricity supplier⁴⁷ to apply for an electricity supply licence and a direction relieving them of their obligation to be a direct party to the industry codes listed in SLC 11.2⁴⁸. In order to issue such a direction, we require robust alternative arrangements to be in place for a third party licensed supplier (TPLS) to discharge code compliance in these areas on behalf of the Licence Lite supplier.

1.6. Licence Lite suppliers are required to comply with all other parts of the supply licence.

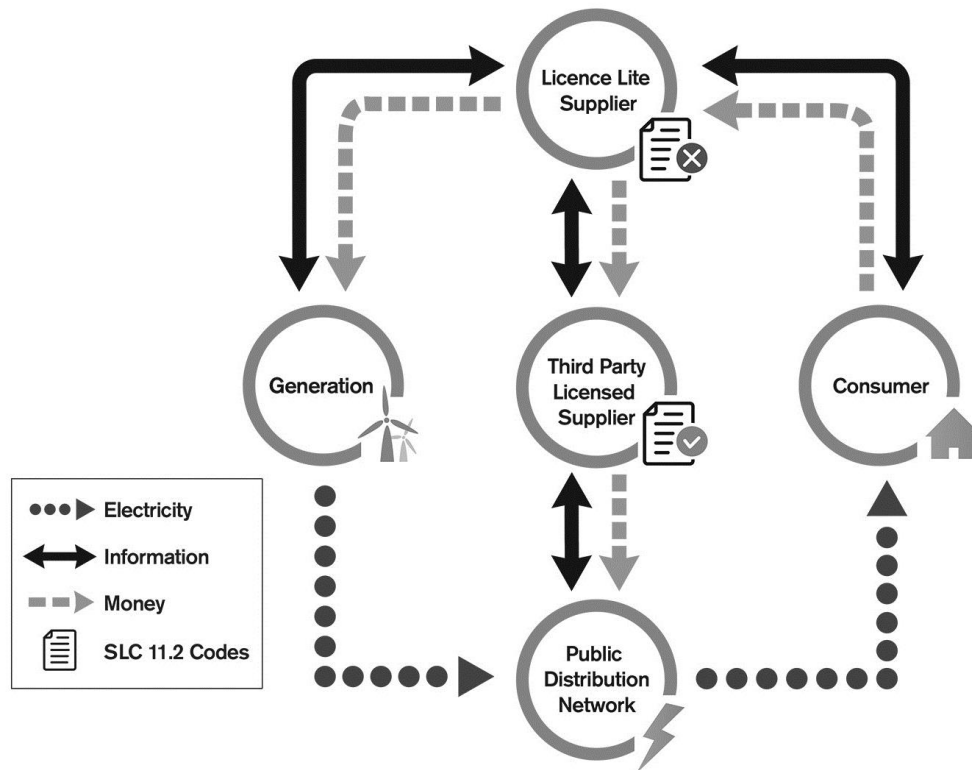
⁴⁵'Licence Lite' refers to arrangements subject to an SLC 11.3 direction. It is not the official name of this policy, but is used throughout the guidance for ease.

⁴⁶Distributed Energy (DE), also referred to as distributed generation or decentralised energy, is defined in our work as renewable electricity generation which is connected directly into the local distribution network, as opposed to connecting to the transmission network, as well as combined heat and power schemes of any scale.

⁴⁷As Licence Lite is a non-discriminatory measure, already licensed electricity suppliers can also apply for a direction. However, the guidance we provide generally assumes that applicants are simultaneously applying for a supply licence.

⁴⁸These are the Master Registration Agreement (MRA), the Distribution Connection and Use of System Agreement (DCUSA), the Connection and Use of System Code (CUSC), and the Balancing and Settlement Code (BSC).

1.7. The principal roles and relationships between the main parties are illustrated below:



Roles and responsibilities

1.8. The following sets out the roles and responsibilities of each party entering into a Licence Lite arrangement. In doing so, it clarifies our expectations of each party, but should be treated as an indicative, non-exhaustive list. All parties are responsible for securing independent legal advice to ensure the balance of responsibilities is understood and commercial terms are binding.

1.9. In developing this regulatory option, our intentions are to maintain consumer protection and market/system integrity whilst simultaneously reducing the highest cost and competency compliance burdens placed on small parties.

As a prospective Licence Lite supplier

- It is your responsibility to identify suitable TPLS parties/services and enter into a robust set of arrangements for the provision of SLC 11.2 compliance.
- It is your responsibility to submit an electricity supply licence application,⁴⁹ request for a direction and all necessary supporting documentation.

⁴⁹If you already hold an electricity supply licence please inform us of that fact when applying for an SLC 11.3 direction.

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- Where the TPLS is complying with the arrangements, you are responsible for complying with and receive all other obligations and entitlements relevant to a licensed supplier, other than the SLC 11.2 Codes.
- If you do not have access to the information held by the TPLS required to fulfil your obligations, you may be in breach of your licence and subject to enforcement action.
- It is your responsibility to alert the regulator to any break-down of the arrangements.

As a prospective third party licensed supplier (TPLS)

- You are required to enter into an agreement which requires that you wholly accept the delivery responsibilities, obligations and liabilities associated with the SLC 11.2 Codes.
- As part of the arrangements above you will need to confirm to the Licence Lite supplier your ability to meet the regulatory and code compliance requirements on their behalf.
- Having done so, you are therefore responsible for delivering Code compliance and are bound to do so on behalf of the aspiring Licence Lite supplier by the proposed arrangements.
- As part of the arrangements above, you may be asked to provide further services on behalf of the Licence Lite supplier (not related to delivering the requirements of the SLC 11.2 Codes). These services will not form part of the suppliers' operation under SLC 11.3.
- It is your responsibility to alert the Licence Lite supplier to any issues pertaining to SLC 11.2 Code compliance.

Applying for a Licence Lite direction

Application Overview

1.10. Prospective and existing electricity supply licensees are eligible to apply for a direction under SLC 11.3. There are therefore two parts to an application to allow you to operate as a Licence Lite supplier, unless you are already a licensed electricity supplier in which case only part 2 applies. Please clearly identify your part 2 application as a request for an SLC 11.3 direction.

Part 1	Part 2
<u>Apply for an electricity supply licence.</u> You can find an application form and guidance on our licence application webpages. ⁵⁰	<u>Request SLC 11.3 direction and provide documentation to support this request, specifically:</u> a) Administrative details b) A supplier services agreement (contract setting out arrangements between the applicant and its TPLS) c) Industry interaction assurances.

1.11. Paragraphs 1.14-1.21 provide more detail on the information we require for part 2. If there are material changes to your proposals while we are processing your application, please advise us immediately.

1.12. There is no fee to apply for a Licence Lite direction, although the fees required for a standard licence application do still apply.

1.13. Please send your supply licence application and/or documentation supporting a request for an SLC 11.3 direction to licensing@ofgem.gov.uk. Alternatively, send hard copies by post to 9 Millbank, London SW1P 3GE. If you already hold a supply licence and are solely applying for an SLC 11.3 direction, please send your request to sustainable.energy@ofgem.gov.uk.⁵¹

Administrative details

1.14. In order to process your direction application, we require that you provide:

- Your registered business name and registration number
- A contact name and associated contact details
- The status of your electricity supply licence or licence application
- The registered business name of your proposed TPLS
- Which of the SLC 11.2 Codes (or parts thereof) you are seeking derogation from (if you have more than one TPLS please indicate which elements of SLC 11.2 each TPLS will be responsible for).

Supplier services agreement

1.15. In seeking derogation from the SLC 11.2 Codes, it is important that you establish robust arrangements with a licensed TPLS.

1.16. In order to assess the detail of your arrangements with a TPLS we ask to see the contract governing arrangements between the two parties,⁵² referred to here as

⁵⁰<https://www.ofgem.gov.uk/licences-codes-and-standards/licences/application-process>

⁵¹ Please note that this email address is subject to change.

⁵² If you choose to appoint more than one supplier to comply with the SLC 11.2 Codes on your behalf, the following information must be presented for all TPLSs. In addition we require that you explain how the interactions between yourselves and the individual TPLSs and between

the 'supplier services agreement'. While the agreement may be represented across several individual documents, we ask for reasons of clarity and expediency of assessment that they be presented in a coherent and organised manner.

1.17. Below we set out the content of a supplier services agreement. However, please note that this list sets out the minimum requirements and is non-exhaustive. Any applicant should seek legal advice on the services that may be required to ensure their circumstances remain compliant with the SLC 11.2 Codes.

1.18. The supplier services agreement (or associated contractual documents provided as part of your application) should describe:

- An overview of your business model describing your anticipated consumer type/numbers, supply volumes, generation source etc.
- The nature of the relationship between the parties (eg agent, trustee / beneficiary etc).
- The duration of the agreement.
- The obligations on both the Licence Lite supplier and the TPLS (with particular reference to the agreement from the TPLS that they are responsible for delivering Code compliance under the SLC 11.2 Codes and are effectively bound to do so on behalf of the aspiring Licence Lite supplier) with details of contractual resolution of disputes between the parties.
- Arrangements for continuation of services to consumers in the event the agreement is terminated (by agreement, and in the event of either party ceasing to trade).
- Information exchange and data protection arrangements.
- The means by which the Licence Lite consumers will be identifiable on the MPAS (Meter Point Administration Service) systems.
- Payment arrangements (eg for settling use of system charges).
- A service specification setting out the processes, authorities and responsibilities regarding the day-to-day operation of the agreement (eg with regard to supplier transfers and meter administration).

1.19. We do not require your supplier services agreement to be finalised in order to process your application, but will require a signed copy of the contract before the direction can be approved. However, we recommend that you only apply when negotiations between the parties are near-final as any changes may delay our assessment of your application. We may also wish to discuss the draft arrangements with your proposed TPLS.

Industry interaction arrangements

1.20. Compliance with the SLC 11.2 Codes has implications for obligations contained in the remainder of an electricity supply licence. We therefore require (as part of your supplier services agreement or as a separate, linked agreement) evidence that you have considered and, where necessary, contractually addressed those interactions.

the respective TPLSs will be managed.

1.21. This should include as a minimum:

- Confirmation of validity of approach to identifying Licence Lite consumers on MPAS systems from relevant Code Administrators
- Reporting processes (both to industry governance and regulatory requests)
- Details of proposed arrangements for ensuring security of supply for all consumers, including the relationship between the Licence Lite supplier and the TPLS as a shipper and purchaser of electricity, and proposed netting-off agreements (governing purchase of excess electricity and provision of additional electricity as required).

Processing applications

Factors considered in assessing applications

1.22. As explained throughout the guidance, to receive a Licence Lite direction applicants must present robust alternative arrangements with a TPLS to provide industry-compliant services for the obligations contained in SLC 11.2. In order to assess whether this is the case, the Authority, having regard to its principal objective and its statutory duties, including our duties in respect of sustainable development, will consider amongst other things the impact of issuing a direction under SLC 11.3 on consumers, competition, the ability of other authorised electricity operators to comply with their statutory obligations and licence conditions and sustainable development.

1.23. As part of a supply licence application, applicants are required to certify that they have read and understood the relevant standard conditions of the electricity supply licence.⁵³ For the purposes of assessing a Licence Lite direction application, we will use the information provided in order to assess all applications against the following factors:⁵⁴

- The appointed TPLS has agreed to deliver Code compliance on behalf of the applicant and is bound to do so (see paragraph 1.17)
- There are no significant risks to any licensee, consumers or other relevant stakeholder as a result of the proposed arrangements.

Process

1.24. Below we set out the steps involved in our assessment of direction applications; these are also depicted in the subsequent flowchart. The steps will be combined with the licence application process where possible and appropriate.

⁵³<https://epr.ofgem.gov.uk//Content/Documents/Electricity%20Supply%20Standard%20Licence%20Conditions%20Consolidated%20-%20Current%20Version.pdf>

⁵⁴These criteria are focused on issues arising from an SLC 11.3 application.

1.25. We will confirm receipt of a direction application, and then check that it includes all of the information requested in paragraphs 1.14-1.21. We will then write to the applicant either stating that the application is:

- complete, subject to any notification by us to the contrary at any time during our assessment of the application, or
- incomplete, and setting out the additional information or documents we require before we can start to process the application.

1.26. We aim to reach a decision on whether to grant a Licence Lite direction within a reasonable timeframe. Where licence and direction applications are processed simultaneously, the usual timeframe for licence application assessment does not apply.⁵⁵ The licence application will not be subject to tacit authorisation as would otherwise be the case with a standard licence application if we did not reach a decision on the application within the stated timeframe.

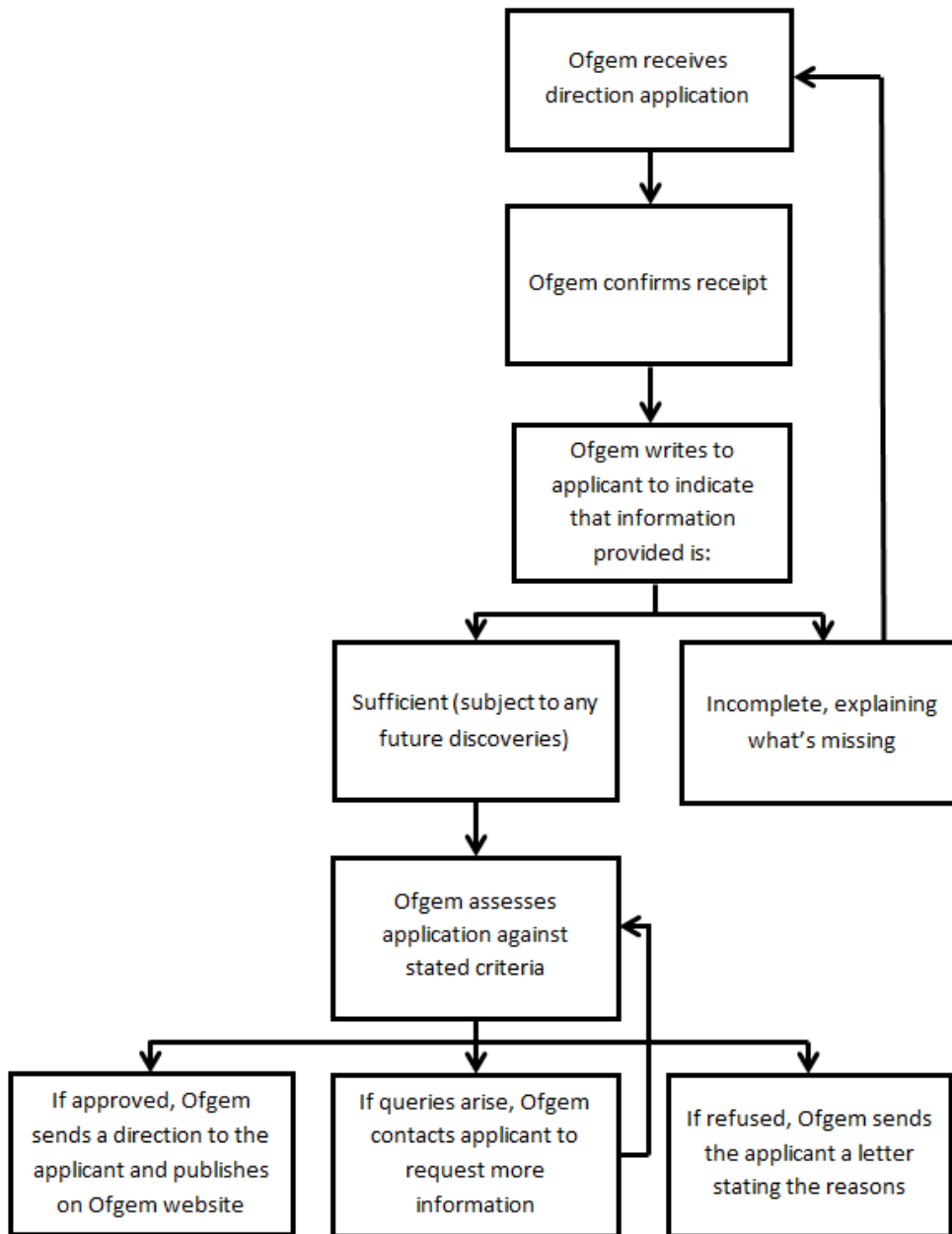
1.27. If it becomes apparent during our assessment that we require further information, we will stop assessing the application and write to the applicant requesting that information. We will only continue to assess the application when the applicant has provided all of the requested information.

1.28. If the information provided satisfies the requirements set out in this guidance we will issue a direction⁵⁶ to the applicant granting a derogation from the relevant obligations. We will send this direction to the applicant directly and publish it on our website.

1.29. If we propose to refuse a direction application we will write to the applicant explaining our reasons. Where a supply licence is being applied for in parallel and the application has been approved, we will ask whether the applicant wishes to be granted a supply licence on full terms.

⁵⁵This is due to the special arrangements required and the central role of the TPLS.

⁵⁶Please note that being granted a direction does not mean that we have given any endorsement to the applicant or any associated person, their financial status or their business plan or methods. We do not give any guarantee or warranty that the licensee or any related person is 'fit and proper'. By applying to us for a licence you agree that the applicant and any related persons agree not to make any representations to the contrary.



Licence Lite operation

1.30. This section provides some detail on how the Licence Lite mechanism works in practice. It summarises the roles and responsibilities of both the Licence Lite supplier and the TPLS regarding the activities that allow a licensed supplier to operate in the competitive electricity market without being a direct party to the SLC 11.2 Codes. It also sets out Ofgem's likely view on enforcement and licensing matters (pending the particular circumstance in question). Applicants may wish to consider the points below when establishing the terms of agreement with their TPLS; however, the points below are intended as guidance only and are non-exhaustive.

Industry functions and activities

Duty to supply

1.31. SLC 22 requires suppliers with a domestic supply licence to offer terms to all domestic consumers that make a valid request.⁵⁷ A restricted supply licence may be applied for, although we will consider, amongst other things, whether any such request is justified in terms of public interest.

Deemed contracts

1.32. A deemed contract will normally exist when a consumer moves in to new premises and starts to consume electricity without agreeing a contract with a supplier. The rules relating to deemed contracts are set out in the Electricity Act (schedule 6 paragraph 3), the supply SLCs and our guidance on deemed contracts,⁵⁸ and apply to a Licence Lite supplier as they do to any other supply licensee. Accordingly, where an incoming occupier does not notify the Licence Lite supplier of such occupation and subsequently uses electricity, it is likely that a supply contract would be deemed to exist between the Licence Lite supplier and the customer. However, the precise legal position will depend on the individual circumstances of each case.

1.33. In addition, we anticipate a deemed contract arising between a Licence Lite supplier's customers and their TPLS in the event that the Licence Lite supplier were to fail.

Representatives of the licensee

1.34. SLC 13 states that "The licensee must take all reasonable steps to ensure that each Representative who visits a Consumer's premises on the licensee's behalf...can be readily identified as a Representative of the licensee by a member of the public". As the Licence Lite supplier is the relevant licensee, it is their responsibility to ensure that any representatives visiting their consumers identify themselves as representing the Licence Lite supplier, even if they have been engaged by their TPLS.

Market Participant Identifier

1.35. There are a number of situations in which it will be important to be able to identify sites supplied by the Licence Lite supplier on the TPLS' systems, for example to accurately assign environmental and social obligations, and to be able to distinguish sets of customers for the purposes of a Last Resort Supply Direction. Licence Lite suppliers must therefore ensure their customers are uniquely identifiable

⁵⁷This requirement can be subject to exceptions, for example under SLC 22.7:

<https://www.ofgem.gov.uk/licences-codes-and-standards/licences/licence-conditions>

⁵⁸<https://www.ofgem.gov.uk/publications-and-updates/guidance-deemed-contract-relationship-pursuant-gas-act-1986-and-electricity-act-1989>

within the central Meter Point Administration Service (MPAS) systems, and therefore within their TPLS's systems.

1.36. One way to achieve this is through the use of a unique Market Participant Identifier (MPID), a unique four character code by which a party is identified by the Supplier Meter Registration Service and for the purposes of settlement volume allocation. There is facility for Licence Lite applicants and their TPLSs to meet with Code Administrators to discuss their options in this regard.

Finances

1.37. Prospective applicants should note that Code Administrators assess credit at Party ID level, so the Licence Lite supplier's credit level would be absorbed within the TPLS' for the purposes of Code compliance.

Data sharing and data protection

1.38. Some of the information Licence Lite suppliers need to comply with the remainder of their licence is collected by their TPLS through Code compliance. For example without being a signatory to the MRA, a Licence Lite supplier would not have automatic access to the Electricity Central Online Enquiry Service (ECOES) which is used to support suppliers in the consumer transfer process. It is the Licence Lite supplier's responsibility to ensure that they have the necessary access to information collected by their TPLS, and that data protection provisions are adhered to all times.

Smart Energy Code

1.39. Any Licence Lite supplier⁵⁹ will be bound by the terms of SLC 48, and so is required to comply with the Smart Energy Code (SEC). However prospective applicants may wish to note that they may apply (under SLC 48.2) for relief from the requirement to comply with the SEC.

1.40. We will consider any application for a derogation under SLC 48.2 on a case by case basis. The uncertainty over the scope of the SEC and the role a third party will play in relation to smart meters will be a significant factor affecting our ability to grant a derogation at this stage.

1.41. The two processes (derogation under SLC 48.2 and direction under SLC 11.3) would be dealt with separately. However, where circumstances allow, we would endeavour to process the applications simultaneously.

⁵⁹As per SLC 48, suppliers subject to the SEC include those supplying electricity to Domestic Premises or Designated Premises. Designated Premises means a Non-Domestic Premise at which a metering point falls within profile class 1, 2, 3 or 4 as defined in the Balancing and Settlement Code (as of 30 November 2012).

Social and environmental programmes

1.42. Suppliers are (or will be⁶⁰) required to comply with a range of social and environmental programmes / obligations introduced by government such as the Energy Companies Obligation (ECO),⁶¹ the Renewables Obligation (RO),⁶² the Climate Change Levy (CCL),⁶³ the Warm Home Discount (WHD),⁶⁴ Feed-in Tariffs (FITs),⁶⁵ the Government Electricity Rebate (GER),⁶⁶ the Electricity Market Reform (EMR)⁶⁷ and the Green Deal (GD).⁶⁸ Licence Lite suppliers must offer the relevant services to the extent they fall within the qualifying criteria. Alternatively they may wish to establish a commercial relationship with a third party to comply with the schemes on their behalf, but would retain the regulatory responsibility.

1.43. Licence Lite suppliers are not normally affiliates of their TPLS, which means that where an obligation is triggered by a threshold of consumer numbers (or sized on the basis of the suppliers' market share), the consumer/supply data of the Licence Lite supplier is applied separately and not conflated with the TPLS' consumer numbers. Where a Licence Lite supplier's supply volume or consumer numbers do not require that they satisfy a scheme's obligations, and if the programme allows for it, the supplier may seek to participate in the scheme on a voluntary basis.

1.44. To ensure these obligations are set correctly, suppliers must provide accurate consumer numbers and supply volumes at the start of the relevant scheme year (or the point from which the supplier becomes subject to the schemes' obligations), and so must be able to identify Licence Lite consumers within the TPLS systems (see paragraphs 1.35-1.36).

1.45. Licence Lite suppliers will also need to ensure they can access data held by their TPLS to ensure they are able to comply with, for example, the ongoing reporting, communication and financial requirements of the obligations. If they do not have access to the information required to fulfil their obligations, they may be in breach of their licence and subject to enforcement action.

1.46. Although the obligations have varying requirements and arrangements, there are common features and functional requirements. The following summary is not intended to be exhaustive nor definitive, nor a substitute for knowledge of the regulations, guidance notes and subsequent licence conditions arising from these

⁶⁰At the time of writing the Electricity Market Reform (EMR) is not yet operational in respect of suppliers' obligations.

⁶¹<https://www.ofgem.gov.uk/environmental-programmes/energy-companies-obligation-eco>

⁶²<https://www.ofgem.gov.uk/environmental-programmes/renewables-obligation-ro>

⁶³http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageExcise_InfoGuides&propertyType=document&id=HMCE_CL_001174

⁶⁴<https://www.ofgem.gov.uk/environmental-programmes/warm-home-discount>

⁶⁵<https://www.ofgem.gov.uk/environmental-programmes/feed-tariff-fit-scheme>

⁶⁶<https://www.gov.uk/government/consultations/government-electricity-rebate>

⁶⁷<https://www.gov.uk/government/policies/maintaining-uk-energy-security--2/supporting-pages/electricity-market-reform>

⁶⁸Licensed electricity suppliers are obligated to deliver Green Deal requirements when they supply to at least 250,000 consumers. Suppliers have to accede to the Green Deal Arrangements Agreement (GDAA) - <https://www.gov.uk/green-deal-energy-saving-measures>

obligations, but may aid prospective suppliers in identifying what data sharing provisions and commercial arrangements may be appropriate.

Examples of Scheme Compliance Activity	
Information provision	<ul style="list-style-type: none"> • Customer numbers (domestic and non-domestic) • Supply volume data (actual and projected) • Supply volume data (disaggregated by country) • Advice to Feed-in Tariff (FIT) applicants • Advice to fuel poor customers
Notifications and registrations	<ul style="list-style-type: none"> • Notification to Ofgem of Levy Exempt Certificates (LECs) provided under renewable source contracts • Notification to HMRC of compliance with CCL • Presentation of Renewables Obligation Certificates (ROCs) to cover RO requirements • Registration with and account maintenance with the Renewables and CHP Register for CCL, RO and FITs
Making payments	<ul style="list-style-type: none"> • Rebates to consumers (under the GER) • Payments to the Low Carbon Contracts Companies and the Electricity Settlements Companies for the EMR CfD and CM mechanisms • Payments to the ROC buy-out fund in event of supplier obligation shortfall • Payments to FIT eligible distributed generators • Charge Green Deal consumers and make payments to GD service providers
Other	<ul style="list-style-type: none"> • Assess FIT installations against Microgeneration Certification Scheme • Read FIT meters • Installation of energy efficiency measures in domestic households • Administer relevant industry exemption arrangements from levies (eg CCL and the CfD Supplier Obligation)

Gas or dual fuel supply

1.47. Licence Lite applies only to electricity supply. If a company wishes to supply electricity and gas, they would need an appropriate licence (or to operate on an exempt basis for each activity). For a Licence Lite supplier this would mean providing electricity under the Licence Lite arrangements and gas under a supply licence (unless the supplier's gas business arrangements allow them to operate on an exempt basis).⁶⁹ Operating under a Licence Lite direction does not affect the gas licensing and exemption arrangements.

⁶⁹Stakeholders may be aware of the Other Than by Gas Transporter (OTGT) supply licence, sometimes referred to as 'gas supply lite'. Please be aware that this arrangement has no relationship with and is not analogous to Licence Lite. The OTGT licence was created to deal

Compliance and enforcement

1.48. Many enforcement arrangements apply to Licence Lite suppliers as they would any other supplier. Some situations, however, are specific to the Licence Lite supplier / TPLS relationship. The most relevant points are set out below.

Balance of responsibilities

1.49. The Licence Lite supplier is expected to comply with the conditions of an SLC 11.3 direction, which has been issued on the basis of the Authority being satisfied with the arrangements in place between the Licence Lite supplier and a TPLS.

1.50. Under the terms of the direction, the Licence Lite supplier is relieved of the obligation to be a party to and comply with the SLC 11.2 Codes while arrangements with its TPLS remain functioning.

1.51. Under this arrangement, the TPLS would be responsible for complying with the SLC 11.2 Codes and would bear the responsibility for any breaches of the SLC 11.2 Codes in connection with the Licence Lite supplier's activities as well as its own.

1.52. If the TPLS does not meet its commercial obligations as set out in the supplier services agreement, we would expect the Licence Lite supplier to seek redress via the commercial agreement.

Multiple roles

1.53. A Licence Lite direction provides derogation from the obligation to be a direct party to the BSC, MRA, CUSC and DCUSA for the purpose of supply licence compliance. However, some Licence Lite suppliers may be required to be party to one or more of those Codes for other purposes (for example, if they hold a generation licence). For the avoidance of doubt, a Licence Lite direction only relieves a company of its Code obligations in relation to its role as a supplier.

Complaints handling and the Energy Ombudsman

1.54. Licensed suppliers who supply domestic and/or micro business customers are required to be members of the Ombudsman scheme⁷⁰ and comply with complaints handling regulations.⁷¹ Domestic and micro business⁷² customers of energy suppliers

with a specific situation where a gas network is privately owned and operated, thereby requiring a party to hold gas supply and transporter licences (prohibited under the Gas Act 1986). A class exemption (part 2, paragraph 7 of the Gas (Exemptions) Orders 2011) was created exempting such participants from the need to hold a gas transporter licence as long as they hold an OTGT licence under section 7A(1) of the Gas Act 1986

⁷⁰<http://www.legislation.gov.uk/uksi/2008/2268/contents/made>

⁷¹<http://www.legislation.gov.uk/uksi/2008/1898/contents/made>

⁷²Details of the Energy Ombudsman services can be found at: <http://www.ombudsman-services.org/who-can-we-help-energy.html>. The qualifying criteria for a micro business can be found at: http://www.legislation.gov.uk/uksi/2014/2378/pdfs/uksi_20142378_en.pdf

have the right to take certain complaints to the Energy Ombudsman if the supplier fails to resolve the problem. They can do so either after eight weeks have passed since making the complaint or the complaint has reached deadlock (the supplier says they can do no more), whichever is soonest. At this point if a customer of a Licence Lite supplier were to make a complaint to the Energy Ombudsman then the Ombudsman would investigate the complaint, including approaching the Licence Lite supplier.

1.55. The Ombudsman's role is to resolve the complaint against the customer's supplier, irrespective of how the supplier delivers its services (eg through third parties). As the supply contract is between the customer and the Licence Lite supplier, the latter would be required to take full responsibility for complaints, with any disputes between the Licence Lite and TPLS resolved contractually. In addition, the Ombudsman cannot require information from a third party (eg the TPLS). To deal with the customer's complaint and any subsequent Energy Ombudsman investigation, the Licence Lite supplier must therefore ensure that it has ready access to information held by the TPLS in relation to its customers (see paragraph 1.38).

Enforcement action

1.56. If a Licence Lite supplier is found to have breached its licence conditions, there are a number of enforcement actions we may take, including imposition of penalties, consumer redress, and orders. Our approach to our use of our enforcement powers is set out in our Enforcement Guidelines.⁷³

1.57. In the event of a Licence Lite supplier's customers being reassigned via a direction of last resort, the supplier would cease to supply consumers. While a Licence Lite supplier in this situation may be in breach of SLC 11.3, this may not result in consumer harm as they would no longer be actively breaching the SLC 11.2 Codes. In this situation, we would take decisions on enforcement actions in line with our Enforcement Guidelines.

1.58. Where a Licence Lite supplier becomes aware that its TPLS has not adequately discharged its obligations under the Codes we require the supplier to both inform us forthwith and take all reasonable steps to ensure the TPLS complies with the agreement.

1.59. In the event of a TPLS failing to meet its obligations under the agreement, a Licence Lite supplier may be in breach of SLC 11.3 by not having in place arrangements to deliver SLC 11.2 Code compliance. If a Licence Lite supplier is deemed to be in breach, Ofgem will take decisions on enforcement action in line with its Enforcement Guidelines.

⁷³<https://www.ofgem.gov.uk/ofgem-publications/89753/enforcementguidelines12september2014publishedversion.pdf>

Supplier of Last Resort

1.60. As set out in paragraph 1.33, if a Licence Lite supplier were to fail, we would anticipate a deemed contract arising between the Licence Lite customers and the TPLS.

1.61. If the TPLS were to fail and a trade sale was not achieved by the administrator, we would expect to assign the Licence Lite supplier's customers to a Supplier of Last Resort (SoLR).⁷⁴ The Licence Lite supplier could then attempt to secure a new TPLS and then seek to re-contract with these customers. In the meantime the Licence Lite supplier may be in breach of SLC 11.3, although not actively breaching the SLC 11.2 Codes. We would take decisions on enforcement actions in line with our Enforcement Guidelines.

Licence revocation

1.62. We would consider revoking a supply licence⁷⁵ issued with a Licence Lite direction if the licensee were found to not be complying with its licence and had failed to act in accordance with an enforcement order.

Changes to operational arrangements

1.63. During the course of operation under SLC 11.3 it is reasonable to assume that a supplier's business arrangements may evolve. Below we set out how several of these scenarios may work in practice.

Change of TPLS

1.64. The relationship between the TPLS and the Licence Lite supplier will be governed by a commercial agreement (the supplier service agreement), including appropriate break clauses and business continuity provisions. However, a Licence Lite direction will remain in place if a Licence Lite supplier changes their TPLS as long as there is no material change to the supplier services agreement or other arrangements for SLC 11.2 compliance.

1.65. Licence Lite suppliers are required to contact us if they intend to change their TPLS. We will then engage with the supplier to explore whether a new direction will be required.

⁷⁴On the basis of SLC 7.1, which states that "Each Contract and Deemed Contract for the supply of electricity to a premises must provide for itself to end when a Last Resort Supply Direction given to any other Electricity Supplier has effect in relation to that premises". The Supplier of Last Resort direction would therefore incorporate all of the sites that it was managing in central systems, including those that it managed on behalf of the Licence Lite supplier.

⁷⁵<https://www.ofgem.gov.uk/ofgem-publications/59617/electricitysupplylicencerevocationconditions.pdf>

1.66. Prospective Licence Lite suppliers may wish to include arrangements in their supplier services agreement which allow for continued service provision while they establish a contract with a new TPLS, to ensure that SLC 11.2 is complied with at all times in the event of an agreed contract termination.

Transfer of supply licence and direction

1.67. If a supplier wishes to transfer its licence to another company it will need to complete the same application form and meet the same criteria as it would for a new licence application. A Licence Lite direction is associated with the original licence to which it was issued, so in this situation a new direction would also have to be applied for.

End of Licence Lite operation

1.68. In the event that a Licence Lite direction is revoked, the supplier to which it applied is obliged to comply with SLC 11.2. The responsibility is on the supplier to ensure compliance in the absence of an SLC 11.3 direction.

Annex 2 – Licence Lite applicant journey

The table shows the stages of the journey for those parties interested in supplying electricity under a Licence Lite arrangement. It summarises the stages of an application for an SLC 11.3 direction. For full information on the requirements related to a supply licence application, please see paragraphs 1.10-1.21 of Annex 1. If you are already a licensed supplier, only those requirements related to the SLC 11.3 direction will apply.

	Decision to apply	Securing TPLS services	Apply for a supply licence and Licence Lite direction	Provide additional information	Supply licence and direction application assessed	Licensed to supply
Applicant journey →	1. Applicant identifies Licence Lite as preferred option (see consultation paragraphs 1.14-1.18)	2. Applicant identifies potential TPLS partner(s) and commences negotiations / secures services.	3. Applicant applies for supply licence and (with agreement of TPLS) an SLC 11.3 direction, providing information describing how the SLC 11.2 Codes will be discharged by the TPLS.	4. Applicant responds to requests for further information to clarify queries.	5. Ofgem assesses documentation against criteria set out in paragraphs 1.22-1.23 of Annex 1.	6. Ofgem issues supply licence and direction. Supplier is able to commence supply.
Mandatory steps			Submit application and fee to licensing@ofgem.gov.uk . If applicant already holds a supply licence, submit direction application to sustainable.energy@ofgem.gov.uk . The direction application format is non-prescriptive but should include all areas identified in paragraphs 1.14-1.21 of Annex 1.			
Recommended steps	Applicant and TPLS encouraged to signal intentions to Ofgem.					
Indicative timings			A request for an SLC 11.3 direction disapplies the 45 working day supply licence processing timescale.			