

Summary of responses to the future of retail market regulation consultation

Summary of responses

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Overview

Ofgem's consultation on the future of retail market regulation, published on 18 December 2015, sought stakeholder views on our proposal to rely more on principles in the way we regulate the domestic energy supply market. The consultation closed on 11 March 2016 and we received 27 responses from suppliers, consumer groups and other interested industry parties.

We published an open letter on 2 June 2016 updating stakeholders on our current proposals and general direction of travel.

This document summarises some of the key themes contained in the responses to our consultation. **It does not represent the views of Ofgem.**

We'll continue to use these responses, as well as our ongoing engagement, to assist us with our policy development.

Context

Our December 2015 consultation on the future of retail market regulation set out our ambition to reform the regulatory framework that applies to the rapidly transforming domestic energy supply market. Ofgem's role in this transformation is to ensure that we have a more future-proof regulatory framework that enables consumers to benefit from innovation and competition, protects them from existing and emerging risks and encourages suppliers to put consumer interests at the heart of their businesses.

We have published an open letter (see link overleaf) that updates stakeholders on our latest rulebook and operating model proposals.

Associated documents

- [Future of retail market regulation – update on the way forward](#) (June 2016)
- [Future of retail market regulation consumer group workshop](#) (March 2016)
- [Future of retail market regulation stakeholder workshop](#) (February 2016)
- [Future of retail market regulation consultation](#) (December 2015)
- [Future of retail market regulation stakeholder workshop](#) (July 2015)
- [Standard conditions of gas supply licence](#) (current version)
- [Standard conditions of electricity supply licence](#) (current version)



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Consultation respondents

We received 27 responses (including one confidential response) from across industry.

The stakeholders who provided non-confidential responses were:

Stakeholder	Stakeholder type
Professor Chris Hodges (Oxford University)	Academic
TMA Data Management	Consultancy
Citizens Advice	Consumer group
National Energy Action	Consumer group
Ombudsman Services	Consumer group
UCSM (Utility Customer Service Management)	Consumer group
Which?	Consumer Group
Welsh Government	Government
Chartered Trading Standards Institute (CTSI)	Industry body
Elexon	Industry body
Energy UK	Industry body
Gemserv	Industry body
British Gas	Supplier
E.ON	Supplier
Ecotricity	Supplier
EDF Energy	Supplier
First Utility	Supplier
Good Energy	Supplier
Haven Power	Supplier
Ovo Energy	Supplier
RWE npower	Supplier
Scottish Power	Supplier
Smartest Energy	Supplier
SSE	Supplier
Tempus Energy	Supplier
Runpath	TPI

Responses which were not marked as confidential have been published on our [website](#).

Responses to questions

Reforming the rulebook

Question 1: In what circumstances do you think that prescriptive rules are likely to be most appropriate? Which specific Standard Licence Conditions (SLCs)/policy areas should remain prescriptive in nature?

Continuing role for prescriptive rules

All respondents agreed that there would continue to be a role for prescriptive rules in the domestic energy supply licences, as there will be circumstances where they are most appropriate for managing risk and delivering the right consumer outcomes. However, many stakeholders also considered there to be a need to review all existing prescription to make sure it is still appropriate.

Many respondents considered that the fundamental objective of any review should be to determine what type of rule, if any, is needed to manage risk. Most stakeholders considered that, where appropriate, competition should be promoted to protect consumer interests. These stakeholders stated that if there is evidence showing that competition cannot do this, then the effectiveness of principles-based licence conditions should be explored, as they provide scope for suppliers to innovate and differentiate themselves from other market participants (thereby promoting competition). Many stakeholders considered prescription should only be used if a one-size-fits-all approach was required to manage risk and protect consumer interests.

One supplier considered that industry-facing processes (such as code governance or reporting requirements) better lend themselves to prescription, while rules relating to the services and products suppliers offer consumers should be principles-based so they have flexibility to differentiate themselves in the market. One consumer group raised concerns about principles becoming the “default option” and was keen for Ofgem to be open to introducing new prescription if it is needed.

Criteria and approach for determining where prescription is necessary

A number of responses emphasised the need to apply consistent risk assessment criteria to determine when prescription is appropriate. This would provide transparency and consistency to the supply licence reform process. One respondent emphasised that such criteria should have a strong economic dimension so that, where appropriate, competition is allowed to promote consumers interests.

Respondents also proposed the following criteria for determining when prescription is appropriate:

- There is no or little scope for innovation or differentiation
- The desired impact of regulatory intervention is the same across all consumers
- The risk of consumer detriment without prescription is high because there are insufficient commercial incentives for suppliers to individually or collectively deliver a desired consumer outcome
- There is no existing regulation that does a similar job more effectively, eg consumer protection law or industry codes

- The proposed prescription aligns with Ofgem’s statutory objectives and duties.

Where prescriptive rules could be most appropriate

Several respondents agreed that prescriptive rules are effective at setting specific minimum standards below which suppliers’ outputs should not fall, prohibiting a specific detrimental practice and delivering standardisation across the market.¹ Many respondents considered that these prescriptive rules can be effective at managing risks that consumers in vulnerable situations may face.

Specific examples of licence conditions that respondents suggested should mostly remain prescriptive in nature included:

- General licence arrangements (eg SLCs 1 to 6, 10, 11 and 19A)
- Last resort supply arrangements (eg SLCs 8 and 9)
- Metering arrangements (eg SLCs 25B and SLCs 39 to 53)
- Customer transfers (eg SLCs 14 and 14A)
- Entering into and ending contracts (eg SLCs 23 and 24)
- Compliance with relevant industry codes and government schemes (eg SLCs 25D and SLCs 34 to 38)
- Reporting and information requirements (eg SLC 32)

Question 2: Should we supplement the principle of “treating customers fairly” with any other broad principles? If yes, please outline what these should be and why.

Respondents generally supported the core principle in the Standards of Conduct² (SoC) of “treating customers fairly”. Most respondents consider this to be an effective overarching principle because it focuses on placing the consumer at the heart of regulation. Most respondents did not object to other broad principles³ supplementing the SoC, as long as the rationale for their inclusion was clear and evidence-based. In particular, some stakeholders proposed that additional broad principles could relate to the following areas:

- Empowering consumers to make informed decisions
- Data protection and IT System changes
- Protecting and empowering consumers in vulnerable situations
- Staff recruitment and training
- Constructive engagement with consumer groups.

Other respondents did not consider that additional principles to the SoC were required because the “treating customers fairly” principle provided suppliers with a sufficient guide about how to act in the market. One consumer group was concerned that if prescriptive rules are replaced by broader principles that are ambiguous and difficult to understand, it would be difficult for their frontline staff to communicate consistent and accurate advice to consumers.

¹ Ofgem (2015) [The future of retail market regulation consultation](#), p.13-14

² Refers to the customer objective and standards of conduct for supply activities set out in SLC 25C of the [electricity](#) and [gas](#) domestic supply licences.

³ “Broad principles” are high level rules that are sufficiently generic to sit across multiple policy areas.

There was mostly opposition to the four broad principles⁴ presented in the consultation document. While supportive of the outcomes promoted by these principles, many stakeholders argued that these are already incentivised through the current enforcement process, existing licence conditions (eg the SoC or prescriptive SLCs), or factors not influenced by the regulator (eg company law or obligations to shareholders). In addition, stakeholders questioned whether broad principles are the right vehicle for influencing the internal processes of suppliers and whether this could lead to a risk averse or resource-intensive compliance approach that could, in turn, hinder innovation and cause suppliers to focus less on the consumer.

Question 3: Where might narrow principles be more appropriate than broad principles or prescription?

Where narrow principles could be most appropriate

Most respondents considered that narrow principles⁵ were best suited to activities where different approaches from suppliers could still secure a desired consumer outcome. Desired outcomes could be different for specific customer groups, and narrow principles would thereby allow suppliers to tailor their services appropriately. Where technological change and the potential for supplier innovation is high, respondents noted that narrow principles could also allow the market to discover the most effective method for achieving a desired consumer outcome.

Not all respondents were convinced narrow principles would be an effective regulatory tool. A consumer group doubted whether suppliers will deliver the outcomes a narrow principle intends without detailed guidance. They were also concerned about the time and effort it would take consumer groups to determine whether suppliers are complying with a principle which is expressed in broader terms than prescriptive rules. An independent supplier questioned the usefulness of narrow principles entirely, and could not identify an application for such rules.

Many respondents recognised that it is hard to make a final judgement on where narrow principles might be appropriate given the uncertainties surrounding the outcomes and impact of the Competition and Markets Authority (CMA) energy market investigation. Nonetheless, many thought it would be appropriate to consider the role narrow principles could have in the following areas of the supply licence:

- Sales and marketing activities (SLC 25)
- Customer communications (eg billing information (SLC 31A), annual summary (SLC 31A), fixed term contract roll-offs (SLC 22C) and unilateral disadvantageous price change letters (SLC 23)).
- Consumer vulnerability (akin to proposed changes to the Priority Services Register (SLC 26) and the debt management rules which require a supplier to take into account customers "ability to pay" when setting repayment instalments (SLC 27.8)).

⁴ Ofgem (2015) [The future of retail market regulation consultation](#), p.16.

⁵ "Narrow principles" are higher-level requirements than prescriptive rules but, unlike broad principles, apply to specific policy areas.

Please refer to Question 14 for more views on where narrow principles could replace prescriptive rules.

Challenges with narrow principles

Many respondents considered that designing and operating narrow principles so that they provide sufficient regulatory certainty, without mandating specific actions or outcomes, would be challenging. To manage this trade-off stakeholders suggested we should:

- Clearly define the policy intent of a principle and the consumer outcome that is expected, without defining how that outcome should be delivered
- Ensure narrow principles do not contradict each other and do not contradict broad principles
- Limit their volume as too many narrow principles will make it hard for suppliers to develop effective compliance approaches
- Revise groups of similar or related licence conditions together to ensure changes to the supply licence are made in a coherent manner.

Question 4: What are your views on the potential merits or drawbacks of incorporating consumer protection law into licences?

Most respondents who commented on this question did not consider that incorporating existing consumer protection law into energy supply licences was necessary. Some stakeholders considered that incorporating these laws would create complexity as there could be different appeal processes for licence rules and consumer protection law. There were also concerns that this move could create a risk of double jeopardy as a supplier may incur sanctions under more than one piece of legislation for a single act.

Question 5: How should we use principles and prescription to most effectively protect consumers in vulnerable situations?

Stakeholders generally felt that, in certain circumstances, principles could be an effective regulatory tool to protect and empower consumers in vulnerable situations. This is because principles should give suppliers the flexibility to innovate and deliver solutions that take into account the transient nature of vulnerability, and the unique circumstances of different vulnerable consumers.

Most respondents also saw a continuing role for prescription, especially where clear minimum standards need to be upheld or a specific detrimental practice needs to be prohibited. However, one supplier stated that it did not agree that prescriptive rules were needed to set minimum standards or prohibit detrimental practices. This supplier considered that prescriptive rules can lead to a 'one-size-fits-all' approach to vulnerability and that the customer outcomes promoted by well-designed principles should offer enough protection. Another supplier suggested that the SoC already provides significant protection for consumers in vulnerable situations and that clearly defined prescriptive rules should be used if a specific vulnerable consumer outcome is desired.

Consumer groups and an independent supplier shared a view that, to help suppliers prepare for the changes that a greater reliance on principles will bring, guidance is likely to be helpful (eg good practice examples and case studies). They stated that guidance could play a role in helping suppliers, particularly new and potential

entrants, to understand their duties towards consumers in vulnerable situations. Guidance would also be helpful for consumer groups and frontline advisors who need to understand supplier obligations and consumer rights.

Question 6: Do you agree with our proposed approach to guidance?

There was strong support for improving the visibility and accessibility of guidance on the Ofgem website and for introducing links between the supply licence and relevant guidance records. Many suppliers asked for greater clarity about the link between guidance and enforcement (ie whether guidance is binding and whether different types of guidance have a different enforcement status).

There was broad support for providing more help through examples of good and bad practice. Respondents supported the publication of case studies, challenge panel reports, lessons from enforcement cases and welcomed incorporating tools such as “quick-start” guides.

Most respondents recognised that replacing prescriptive rules with detailed guidance (sitting outside the supply licence) could lead to “backdoor prescription”. Suppliers in particular voiced concerns about too much detailed guidance stifling innovation and increasing barriers to market entry. Respondents also recognised that robust governance, from Ofgem, around issuing guidance could reduce the likelihood of too much guidance proliferating over time. A governance model should also help ensure that any new guidance responded to a clear need and received an appropriate level of scrutiny before being published.

Some respondents pointed out that providing support via other means, such as through bilateral engagement, might be helpful. Others considered that it could be worthwhile to publish guidance on new principles that would only apply during a “transitional phase”.

Operating the rulebook: engagement and monitoring activities

Question 7: How can we best engage with suppliers in the context of principles?

Respondents were supportive of our proposal to expand engagement with suppliers. There was broad agreement that a major focus of Ofgem’s engagement should be to clearly describe the policy intent of our principles. A number of suppliers also stressed that a key objective of our engagement should be to learn about how suppliers are trying to deliver positive consumer outcomes. Several respondents noted the importance of Ofgem being appropriately resourced for this increased engagement.

Elxon’s Operational Support Manager function was referred to in a number of responses as an example of an effective engagement approach we could look into. However, one respondent was not in favour of this approach as it could lead to inconsistent advice being given to suppliers. Respondents would like us to continue exploring how we could best support innovation such as the “safe testing” of new products and services within existing regulatory arrangements and offering feedback on genuinely innovative ideas.

Question 8: What specific support may be needed for new and prospective entrants?

Views were mixed as to whether specific support should be given to new and prospective market entrants. A few suppliers commented that moving to a greater reliance on principles is a new challenge for the whole industry and therefore the support we offer should be equal across all suppliers.

Other stakeholders thought Ofgem should take a more proactive role in helping new suppliers enter the market and understand their obligations. Suggestions included having a dedicated Ofgem team that assists new suppliers, adopting a more tailored engagement approach (eg stress-testing business plans before issuing licences) and requiring that new suppliers undertake some training before getting a supply licence. One small supplier suggested that the engagement process should recognise their resource limitations, such as allowing more time for requests for information.

Question 9: Do you have any views on how best to approach monitoring in the context of principles? Specifically which indicators and approaches should we use to catch potential problems early?

Overall, respondents supported a risk-based and proportionate approach to monitoring. There was general agreement that reducing the use of prescriptive rules is likely to require the regulator to have a greater reliance on more subjective qualitative data when monitoring the market. Several consumer groups highlighted that insights from frontline advisors are also important in understanding consumer experiences. However, it was noted that many of the quantitative metrics consumer groups already monitor will continue to be useful (such as complaints data).

Many suppliers commented on the burden of monitoring. A few were of the view that moving to principles does not necessarily need to result in an increase in monitoring, with one supplier stating that Ofgem should aim to impose no additional cost burden on regulated firms. Suppliers were generally not supportive of an increase in requests for information. Where these are required, a clear preference was expressed for these being issued on a systematic rather than ad-hoc basis, and being issued with as much advance warning as possible. Several suppliers stressed the importance of Ofgem reviewing the information it currently receives and rationalising this where possible.

A number of suppliers commented that our monitoring approach should not be “one-size-fits-all” and needs to take individual supplier characteristics and business models into account while also allowing industry-wide issues to be spotted. Several respondents said that the framework should distinguish between one-off and systemic issues. It was also suggested that the results of monitoring should not be used to benchmark suppliers against each other.

Suppliers generally supported using self-reporting as a method of monitoring, though several respondents stated they would welcome clarification on when to report issues.

Question 10: Do you have any views or comments on the following proposals?

- We will expand our engagement with suppliers to enhance our understanding of their businesses and help them better understand our rules so they can get things right first time.
- We will collaborate closely with the Citizens Advice Service and the Ombudsman Services: Energy to ensure we maximise the effectiveness and impact of the monitoring activities across our organisations.

Stakeholder comments relating to the first proposal have been summarised under question 7.

Stakeholders were generally supportive of Ofgem working with the Citizens Advice Service and the Ombudsman Services: Energy to maximise the effectiveness of market monitoring activities. Some suppliers also recognised that directly engaging with consumer bodies helps them to better understand consumer concerns. This engagement would also help consumer groups understand the steps suppliers are taking to deliver positive outcomes.

A few respondents commented that while complaints data from the Citizens Advice Service and the Ombudsman Services: Energy will be useful for monitoring, this may have a strong focus on areas where consumers are having negative experiences. They argued that monitoring should also capture the wider context of what suppliers are doing to achieve positive customer outcomes. Another supplier raised concerns about different bodies having different views of what constitutes “fairness” and “all reasonable steps”. They commented that any input from the Citizens Advice Service and Ombudsman Services: Energy into Ofgem’s monitoring framework should avoid this interpretative role.

Operating the rulebook: compliance and enforcement

Question 11: Do you have any views on how best to approach compliance in the context of principles?

Question 12: Do you have any views or comments on the following proposals?

- We will retain our current flexible and discretionary approach to escalating issues to enforcement. We will prioritise compliance activities where possible and appropriate.
- We will increase the links to the level and impact of harm when deciding whether to open a case.
- Engaging early with Ofgem may reduce the likelihood of later enforcement. Information from engagement and monitoring activities may be shared with enforcement where appropriate.
- We will continue to apply our full range of enforcement tools to principles-based rules.
- We will make it easier for all suppliers to learn lessons from enforcement outcomes.
- Enforcement action will continue as usual throughout the transition to principles.

Many stakeholders called for assistance and advice to interpret principles, while also opposing the creation of prescription through guidance or case studies. There was general recognition of the challenge for Ofgem in attempting to balance these opposing calls. Generally, most respondents asked for transparency, consistency and proportionality in relation to compliance and enforcement.

Compliance

Many suppliers called for an increased emphasis on informal, timely conversations with the regulator on compliance issues. A few respondents suggested a “compliance-based enforcement model” that places a greater emphasis on engagement between industry and the regulator should mean consumer detriment is identified more quickly, thereby resulting in better consumer outcomes.

One respondent highlighted the importance of having a clear conceptual distinction between compliance and enforcement action, emphasising the particular role of compliance activity in seeking to ensure suppliers put things right if they go wrong. Another respondent set out the importance of timely compliance activity, and where necessary, prompt enforcement activity to maintain consumer confidence.

A number of suppliers asked for clarity about what type of issues need to be self-reported and when. One stakeholder remarked that suppliers should be trusted to implement reasonable solutions without needing to notify Ofgem. Other stakeholders stated that if self-disclosure leads to punitive enforcement action then supplier-regulator trust might be affected. Another respondent suggested that proactive engagement from both the supplier and the regulator would help to make sure that potential non-compliance was swiftly addressed and consumer harm was minimised.

Enforcement

Several respondents expressed support for the view that the onus should be on suppliers to consider what is fair for consumers, and to achieve positive consumer outcomes. Another recurring theme across responses was the need for a “flexible” compliance and enforcement framework that allows different for interpretations of principles. The importance of dialogue and a relationship of trust between Ofgem and suppliers was cited by a number of respondents.

Some suppliers and an industry representative body proposed that a merits-based appeal route should be made available, on grounds that principles are more subjective than prescription and consequently their interpretation should be open to challenge (eg in respect of Ofgem’s enforcement decisions relating to any new principles-based licence conditions). An “independent review” stage in the enforcement process was also suggested.

Three respondents called for the introduction of a due-diligence defence into the enforcement process. It was suggested that suppliers should be able to evidence how their decision making process was compliant even if the right outcome was not achieved. A few respondents commented that innovation may have unintended consequences. Respondents considered that, in these instances, suppliers should only be enforced against if the supplier concerned was not diligent at resolving any unintended consequences in a timely manner.

Some respondents thought there should be a tolerance period in terms of enforcement while the transition to principles takes place. Others did not believe a tolerance period was necessary and considered it was important for Ofgem continue enforcing its rules to ensure there were no gaps in protection. To help with the transition to principles, a number of respondents considered that greater visibility and careful communication of enforcement and compliance cases would help suppliers better understand what is expected of them. Respondents emphasised that this should be done in a manner which respected confidentiality, for example, by anonymised publication of lessons learned in compliance cases that were closed without enforcement action.

Managing the transition effectively

Question 13: How would you like to engage with us on our proposals and the broader work programme?

All respondents were generally happy with the level of engagement to date. Specifically, respondents cited wider workshops, Challenge Panels and the use of existing forums (such as the Ofgem/Department of Energy and Climate Change Independent Suppliers Forum and the Ofgem Enforcement Conference) as being very useful engagement tools. Suppliers requested more regular site visits to better understand their businesses and more workshops, as they are a good opportunity to feed into policy discussions before formal consultations. When developing operating model proposals, many respondents valued bilateral meetings at both working and senior level.

Smaller suppliers are keen to engage on the reform programme but requested that engagement remains proportionate as they are not able to commit the same level of resource as larger suppliers. One supplier suggested using industry groups to engage with smaller suppliers, sending update emails summarising proposals and requesting views on specific points through short emails.

Question 14: Do you agree with our proposal to take a phased, priority driven approach to reforming the supply licences?

The majority of respondents considered that a phased, priority driven approach is the most logical way to introduce more principles in the supply licence. The reasons most respondents supported a phased approach were that:

- The impact of principles can be researched and assessed, thereby allowing for any problems to be identified and corrected as reforms progress
- It acknowledges the extensive amount of industry change currently underway (including potential Competition and Markets Authority remedies) and makes sure the industry has enough time to acquire the necessary experience and skills to make the supply licence reforms a success
- Suppliers can embed a substantial culture change in certain parts of their business before principles are adopted more widely
- Reform can be driven at a pace which maintains momentum and encourages the regulator and suppliers to transition away from a prescriptive approach
- It provides Ofgem with the option of pausing reform if monitoring work demonstrates that the transition is not delivering positive consumer outcomes

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- It allows reforms to be flexible and adapted to technical advances, especially as the number of third party intermediaries (TPIs) and non-traditional business models increases.

Stakeholders considered that a “big bang” approach may put consumer outcomes at unacceptable risk and doubted that the industry was currently resourced at a level that would facilitate an effective, rapid switchover. Stakeholders generally agreed that a gradual approach would be too lengthy and cause the reform programme to lose momentum.

One consumer group did not support a transition to a greater reliance on principles at this time and would prefer to see more engagement take place regarding how principles could work in practice. They stated that knowing more about how the new regulatory framework is intended to work would allow consumer groups to consider any implications of removing prescriptive rules in a more detailed way.

Question 15: Which areas of the licences should we prioritise? In particular please provide examples where existing prescriptive rules may be causing problems or where market developments are leading to new risks to consumers.

There was general agreement across respondents that we should prioritise the “simpler choices” and “clearer information” rules introduced as part of the Retail Market Review (RMR). Most respondents stated that these rules restrict supplier innovation. A few other respondents referenced the CMA investigation into the energy market and highlighted that these were the areas the CMA considered were constraining innovation and competition.

The table below lists some of rules that respondents would like prioritised.

Rules to prioritise	Reasons given by stakeholders
SLC 20 – Enquiry service, supply number and dispute settlement	One respondent stated that they can’t justify the usefulness of sending the customer their Distribution Network Operator’s postal address. They considered that, in the event of an emergency or power cut, the customer is more likely to contact their network operator by phone.
SLC 22A – Unit rate and standing charge requirements SLC 22B – Restrictions on tariff numbers and tariff simplification	A number of respondents said these conditions constrain innovation and one respondent stated they have had no meaningful impact on improving customer engagement or understanding of the market. A principle was suggested as a more effective way to allow customers to compare tariff offers. Other reasons given by respondents include: <ul style="list-style-type: none"> • The definition of discounts being too broad • Prohibition of discounts and exceptions being unclear and unnecessarily restrictive • The bundling rules being difficult to navigate.
SLC 22C – Fixed term supply contracts SLC 23A – Mutual variations	Respondents stated that there is a significant level of prescription here which has led to communications with the customer becoming difficult to understand.

SLC 31A - Bills, statements of accounts and Annual Statements SLC 31B - Tariff Information Label SLC 31C - Tariff Comparison Rate SLC 31D - White Label Tariffs	A significant number of respondents claimed current bills and annual statements are overly-complicated and incomprehensible to customers. Suppliers felt that they should be allowed to tailor their communications to different customer preferences. However, some respondents considered that prescription may be needed to ensure consistency across certain information and calculations.
SLC 40 - Provision of an In-Home Display	One respondent stated this condition constrains innovation. A principle would provide more flexibility on how information is provided to customers.
PPM warrant charges	One respondent stated that there are inconsistent charging practices between different suppliers. A principle that requires suppliers to prioritise installing smart meters for customers in debt and making sure warrant charges are cost reflective, would tackle the specific problems with warrant charges directly.
Warm Home Discount (WHD) scheme	One respondent thought the WHD scheme is unnecessarily complex, restrictive and ineffective at maximising coverage of those customers that need it. A principle summarising the spirit of the WHD scheme would help to simplify this and would foster better engagement from vulnerable consumers.
Feed-in-Tariffs	One respondent thought the language prescribed for the Feed-in Tariff terms and conditions is too complex and this undermines the customer experience.

Stakeholders generally accepted that focusing reforms on the domestic sector only was appropriate at this time, as this is where there is the most prescription and the biggest scope for change. If a shift to principles is to be applied to the non-domestic sector over time, stakeholders stressed that the specific characteristics of this market will need to be considered.

Question 16: Can you provide any initial views on potential costs and benefits (eg avoided costs) of regulation via principles versus prescription to your organisation? Please explain which parts of our proposals (eg rulebook, operations) these costs relate to.

All respondents agreed that moving to principle-based regulation is likely to generate both costs and benefits for the industry. The majority of respondents stressed the importance of using an impact assessment to inform decisions regarding the introduction of principles and removal of particular prescriptive rules. It was suggested that a 'roadmap' that indicates which prescriptive licence conditions are to be removed or replaced with principles (alongside the related timing) would help suppliers to manage regulatory change and reduce any transitional costs.

On costs, most suppliers indicated that, while there are likely to be implementation costs (including costs to change their IT system and training costs), the greatest impact would be on ongoing compliance, monitoring and reporting costs. But it was

also noted that this burden would be a function of the degree of change in the regulatory framework, including the content of the principles and the clarity of their policy intent. On benefits, the majority of respondents agreed that moving towards principles would allow more space for innovation and promote competition. They noted it could also encourage suppliers to direct resources to projects that could have a positive impact on consumers, such as improving consumer engagement.

One supplier pointed out that the scale of benefits (as well as costs) would be dependent on the perceived regulatory risks of operating under the new principles. Different suppliers could also realise more or less benefits depending on how they respond to the new regulatory framework. Two suppliers claimed that moving to principles would not necessarily deliver more benefits given that the new regime would not mean less regulation, but only a different type of it.

Exploring priority areas for reform

Question 17: Are the existing provisions of SLCs 25.1 and 25.2 the right ones for regulating sales and marketing activities (or are any additional principles needed)?

Question 18: What if any prescriptive rules are needed in addition to the principles in SLC 25 to deliver good consumer outcomes?

There was general support for reducing the amount of prescription in SLC 25. Some respondents stated that the current Objective (as SLC 25.1 and 25.2) could be kept as is, and other principles or prescriptive rules were not necessary. Some respondents suggested reducing the amount of prescription and replacing this with narrower principles, for example, relevant to sales and marketing staff.

Some stakeholders suggested that prescription could be used in SLC 25 to manage risks around:

- Vulnerability – one respondent suggested using a mix of narrow principles and prescriptive rules was needed to ensure sufficient consumer protection while also facilitating innovation
- Comparisons and quotes – prescription may help to ensure suppliers who are engaging in sales over the phone and face-to-face are providing information in a consistent format.

A significant number of suppliers suggested that the SLC 25 Objective could be removed altogether, as it largely duplicates the SoC. Conversely, a small number of respondents did not support changes to SLC 25 as they did not consider it would deliver any benefit or they did not support a policy that could increase face-to-face selling.

Several respondents also suggested that, as part of the review of SLC 25, we should consider the role of TPIs in sales and marketing activities. They did not think it was right that suppliers should be responsible for the actions of TPIs. One supplier suggested introducing a “safe harbour” exemption for suppliers that deal with TPIs. This would exempt suppliers from enforcement action in respect of any contravention by a TPI.

Question 19: What engagement and monitoring process might be required to best operate SLC 25?

There was general support for the use of Challenge Panels, although one supplier suggested that the outcomes from such engagement are not always tangible because they focus heavily on positive customer outcomes, which can be quite subjective.

Another respondent suggested that Ofgem should maximise existing monitoring arrangements, such as data on erroneous transfers, cancellations, objections and complaints data. This data could be used as indicators of a supplier's sales and marketing performance.

A few respondents suggested undertaking satisfaction surveys or interviews after consumers have gone through the change of supplier process as this could incentivise suppliers to make sure the customer receives the right experience as opposed to achieving the switch within the required timeframe. A number of other monitoring methods that were suggested by respondents include pilots, mystery shopping, independent spot checking and requiring an audit trail from suppliers.