

Consumers and their  
representatives, energy  
suppliers, network companies  
and other interested parties

Email: [RIIO.ED1@ofgem.gov.uk](mailto:RIIO.ED1@ofgem.gov.uk)

Date: 16 January 2017

Dear Colleague,

### **Consultation on proposed changes to The Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008**

We<sup>1</sup> are consulting on proposed changes to *The Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008*<sup>2</sup> (the Complaints Handling Statutory Instrument (SI)).

The Complaints Handling SI, requires Distribution Network Operators (DNOs), Gas Transporters (GTs) and suppliers (Electricity and Gas) to inform domestic consumers annually, by writing<sup>3</sup> to them, of the existence of their complaints handling procedures and how to obtain a copy. We are proposing to remove this obligation on DNOs and GTs by amending regulation 10(3) of the Complaints Handling SI to be applicable to suppliers only. DNOs and GTs would still be required to publish their complaints handling procedure in a clear and prominent location on their website in accordance with regulation 10(1) of the Complaints Handling SI.

#### **Background**

In July 2015, we published our decision<sup>4</sup> to reform the Guaranteed Standards of Performance (GSOP) and revoke the Overall Standards of Performance (OS) for electricity and gas suppliers. This change was made to better reflect consumers' needs and remove unnecessary regulatory burdens. It also made it easier for suppliers to comply by having all GSOPs for both gas and electricity suppliers in one piece of legislation. This change was brought about by the *Electricity and Gas (Standards of Performance)(Suppliers) Regulations 2015*<sup>5</sup>, which came into effect on 1 January 2016 and it made changes to *The Electricity (Standards of Performance) Regulations 2015*<sup>6</sup> and *The Gas (Standards of Performance) Regulations 2005*<sup>7</sup> (the Standards of Performance SIs).

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<sup>1</sup> The "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Office of Gas and Electricity Markets (Ofgem) supports the Authority in its day to day work.

<sup>2</sup> <http://www.legislation.gov.uk/uksi/2008/1898/regulation/10/made>

<sup>3</sup> Regulation 10(1) of the Complaints Handling SI requires regulated providers to ensure that its complaints handling procedure appears on their website, therefore the use of 'inform' in regulation 10(3) means something more than publishing and in practice probably requires a letter to be sent to all domestic consumers.

<sup>4</sup> <https://www.ofgem.gov.uk/publications-and-updates/supplier-guaranteed-and-overall-standards-performance-reforms-final-decision-and-statutory-instrument>

<sup>5</sup> [http://www.legislation.gov.uk/uksi/2015/1544/pdfs/uksi\\_20151544\\_en.pdf](http://www.legislation.gov.uk/uksi/2015/1544/pdfs/uksi_20151544_en.pdf)

<sup>6</sup> <http://www.legislation.gov.uk/uksi/2015/699/regulation/22/made>

<sup>7</sup> <http://www.legislation.gov.uk/uksi/2005/1135/regulation/15/made>

Previously, the Standards of Performance SIs required suppliers to pass on the information in any Notice of Rights Statement provided to them annually by DNOs and GTs to their customers. The Notice of Rights Statement sets out the compensation that consumers are entitled to if the DNO or GT fails to meet a prescribed standard set out in the Standards of Performance SIs. DNOs and GTs used to also include information on their complaints handling procedures as a way of discharging their duty under regulation 10(3) of the Complaints Handling SI.

The recent changes to the Standards of Performance SIs removed the obligation on suppliers to pass on the Notice of Rights Statements to their customers. As a result, DNOs and GTs can no longer use this particular obligation to comply with their requirements under regulation 10(3) of the Complaints Handling SI. DNOs and GTs will, therefore, now need to take new steps to ensure this information reaches their customers.

However, DNOs and GTs have said that they consider the obligation is not in the best interests of consumers and asked us to consider whether the obligation remains appropriate.

### **Proposed change**

We have considered the request and propose to amend regulation 10(3) of the Complaints Handling SI by removing the obligation on DNOs and GTs to inform all consumers once a year about the existence of their complaints handling procedure and how to obtain a copy. Currently regulation 10(3) of this SI applies to any 'Regulated Provider'<sup>8</sup> and the requirement will continue to apply to suppliers under our proposal.

### **Reasoning for proposed change**

- It would be an onerous requirement for DNOs and GTs to write to every domestic consumer to inform them of the existence of their complaints handling procedure: it would require a large amount of administration and would incur significant costs, which would ultimately be picked up by consumers.
- DNOs and GTs do not necessarily have the right information about consumers and, therefore, may find it difficult to comply.
- This is in line with changes to the Standards of Performance SIs, which removed several requirements for notices to be sent to consumers.
- The focus for DNOs and GTs should be on comprehensive and effective stakeholder engagement rather than satisfying minimum prescribed requirements.

### **Alternative options considered**

We considered alternative options to our proposed change; however, we consider our proposed amendment is more suitable. The options considered are noted below:

1. We considered whether the DNOs and GTs would be able to use a similar process as before. That is, suppliers send out the DNOs and GTs complaints handling information alongside their own. However, there is no legal requirement on suppliers to do this.
2. Another option was to retain the obligation on the network companies, however, we do not propose this option because:
  - There will be a significant cost for providing written notice to all households, which does not provide an equivalent value to consumers.

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<sup>8</sup> 'Regulated Provider' means any Electricity supplier, Gas Supplier, Gas Transporter (including independent Gas Transporters) and Electricity Distributor (including independent Distribution Network Operators).

- DNOs and GTs do not necessarily have the right information about consumers to do this.
  - The price control framework already incentivises DNOs and GTs to engage effectively with consumers including vulnerable consumers.
3. The final option considered was to remove the obligation for all Regulated Providers; however, in light of the frequency of interactions between consumers and suppliers and the lower administrative cost involved (since suppliers already directly communicate with all their customers) we believe that there is ongoing value in this requirement applying to suppliers.

### ***On-going requirements relating to Complaints Handling Procedures***

DNOs and GTs will still have ongoing requirements to ensure that they have complaints handling procedures, available in a clear and prominent location on their website, is highlighted to a consumer whose complaint is not resolved within a day and is provided to anyone who requests it free of charge. Our proposed change does not remove any of these requirements in regulation 10 of the Complaints Handling SI.

### ***Vulnerable Consumers***<sup>9</sup>

We recognise that certain categories of consumers may be more at risk of being impacted by this change. We have carefully considered the potential impact of our proposal and believe that the needs of these consumers are already adequately catered for under the current price control framework.

The DNOs and GTs all have a licence condition<sup>10</sup> requiring them to establish and maintain a Priority Service Register (PSR)<sup>11</sup> for specific domestic customer groups. This means that customers, who have a particular need for it are given the appropriate information and advice about service interruptions. The DNOs and GTs must, under the licence conditions, also provide facilities to any domestic customer who is blind, partially sighted, deaf or hearing impaired to enable them to ask or complain about any service provided by the licensee. They are required to prepare statements setting out their arrangements for complying with these obligations.

The licence conditions also require the DNOs and GTs to take 'all reasonable steps' to inform domestic customers once a year of the existence of the statements in addition to placing them on their website. For example, by electronic communication and/or by publishing details of the existence of the statements in another form. eg. the phone book. We note that cost will be a factor in determining what is a reasonable step.

### **Responding to this consultation and next steps**

We are seeking views on our proposed changes. In addition, we also welcome views on ways to encourage productive engagement between DNOs, GTs and vulnerable consumers within the context of complaints handling.

Our intention is that the proposed change will come into effect in April 2017.

Responses to this consultation should be received by **13 February 2017** and should be sent, preferably by email, to [RIIO.ED1@ofgem.gov.uk](mailto:RIIO.ED1@ofgem.gov.uk) or in writing to:

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<sup>9</sup> The Consumer Vulnerability Strategy sets out Ofgem's approach to consumer vulnerability in the energy market - <https://www.ofgem.gov.uk/publications-and-updates/consumer-vulnerability-strategy>

<sup>10</sup> [Electricity Distribution Standard Licence Conditions](#) – Condition 10  
[Standard Special conditions \(Gas\)](#) – Condition D13

<sup>11</sup> The [Priority Services Register](#) is a free service provided by suppliers and network operators to customers in need.

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Unless marked as confidential, all responses will be published on our website at [www.ofgem.gov.uk](http://www.ofgem.gov.uk). Respondents may request that their response is kept confidential. We shall respect this request, subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

Respondents who wish to have their responses remain confidential should clearly mark the document to that effect and include the reasons for confidentiality. Respondents are asked to put any confidential material in the appendices to their responses and if possible include a non-confidential summary of their response.

If you have any queries regarding this letter, please contact Louise Deighan at [louise.deighan@ofgem.gov.uk](mailto:louise.deighan@ofgem.gov.uk) or on 0141 331 6363.

Yours faithfully,

**Grant McEachran**  
**Head of RIIO Electricity Distribution, Networks**