

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

Email: RIIO.ED1@ofgem.gov.uk  
Date: 21 March 2017

Dear Colleague,

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

On 16 January 2017, we<sup>1</sup> consulted<sup>2</sup> on a proposed change to *The Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008*<sup>3</sup> (the Complaints Handling Statutory Instrument (SI)). We sought views on amending the Complaints Handling SI to remove the obligation on Distribution Network Operators (DNOs) and Gas Transporters (GTs) to inform all consumers once a year about the existence of their complaints handling procedures and how to obtain a copy. This requirement can be found in regulation 10(3) of the Complaints Handling SI. We have now decided to make this change.

DNOs and GTs will still be required to publish their complaints handling procedure in a clear and prominent location on their website<sup>4</sup>. Regulation 10(3) of this SI applies to any 'regulated provider'<sup>5</sup> and the requirement will continue to apply to gas and electricity suppliers after our changes come into effect.

#### **Reasons for change:**

- We consider that retaining regulation 10(3) in its current format would mean that DNOs and GTs would be required to write to every domestic consumer to inform them of the existence of their complaints handling procedures: it would require a large amount of administration and would incur significant costs, which would ultimately be picked up by consumers. The requirement would become more onerous than originally intended.
- 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<sup>6</sup>, which removed several requirements for notices to be sent to consumers.

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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> <https://www.ofgem.gov.uk/publications-and-updates/consultation-proposed-changes-gas-and-electricity-consumer-complaints-handling-standards-regulations-2008>

<sup>3</sup> <http://www.legislation.gov.uk/ukxi/2008/1898/regulation/10/made>

<sup>4</sup> As required under regulation 10(1) of the Complaints Handling SI

<sup>5</sup> 'Regulated provider' means any Electricity Supplier, Gas Supplier, Gas Transporter (including independent Gas Transporters) and Electricity Distributor (including independent Distribution Network Operators).

<sup>6</sup> [The Electricity \(Standards of Performance\) Regulations 2015](#) and [The Gas \(Standards of Performance\) Regulations 2005](#)

- The focus for DNOs and GTs should be on comprehensive and effective stakeholder engagement rather than satisfying minimum prescribed requirements.

We considered alternative options including:

- Suppliers sending out the DNOs and GTs complaints handling information alongside their own complaints handling procedures, but there is no legal requirement on suppliers to do this.
- Retaining the obligation on the network companies, however, there would be a significant cost and the companies do not necessarily have the right information about consumers.
- Removing the obligation on all regulated providers, however, we believe that there is ongoing value in this requirement applying to suppliers.

We considered our proposed amendment to strike the best balance between ensuring customers are kept informed versus costs. We also recognised that DNOs and GTs will still have ongoing requirements with regards to their complaints handling procedures.

### **Responses to our consultation**

We received 13 responses to the consultation. All responses received were in broad agreement with our proposed amendment.

#### Cost

Nine respondents agreed that the cost involved in sending out mail to every household is not justified by the benefits to the consumer. A few noted that, ultimately, the costs will be borne by the consumer.

One respondent noted that it is likely that a significant proportion of their customers will not read or keep mass communication of this type. Another flagged that the network companies don't necessarily have the right information about consumers and would, therefore, find it difficult to comply with the obligation. As set out in the consultation letter, companies were able to meet this obligation via suppliers under the Standards of Performance SIs, however, due to recent changes this is no longer possible.

#### Ongoing requirements

Seven respondents noted the ongoing requirements and obligations on GTs and DNOs under the SI. These include ensuring that their complaints handling procedures are in a clear and prominent place on their websites, and licence obligations that remain in place for the companies, in particular for vulnerable consumers. Four respondents noted their ongoing requirements to vulnerable customers including one respondent who noted that they will continue to promote the services available for Priority Service Register (PSR)<sup>7</sup> customers.

Although in agreement with our proposed change, one respondent raised their concerns on the accessibility and quality of the complaints handling procedures if consumers find they need to make a complaint. Our proposed change does not remove the requirement on DNOs and GTs to have their complaints handling procedures in a clear and prominent location on their website. The respondent noted that when accessing this on the companies' websites it was not as straightforward as expected, for example, navigating several pages or use of the search engine function were required to find the procedure/complaints page. Another point raised was the inconsistency in detail of information between different websites. They noted that some included sources of independent help while others only

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<sup>7</sup> The [Priority Service Register](#) (PSR) is a free service provided by suppliers and network operators to customers in need.

have contact details of their internal complaints line. It was also noted that the information on some websites is outdated.

We expect each company to review the complaints handling procedure which is placed on its website to ensure it is up to date and that it is also in a clear and prominent place on its website.

Additionally, the respondent raised concerns that we should not rely on online content as a source of information for consumers as not all consumers will use the internet. Other respondents identified additional sources of information for consumers, for example:

- One respondent drew attention to the Stakeholder Engagement and Consumer Vulnerability (SECV) incentive<sup>8</sup>, highlighting that the weight attached to consumer vulnerability in this incentive is a far more effective way of ensuring the needs of vulnerable consumers are met than the inflexible drafting imposed by the Complaints Handling SI.
- The same respondent also stated that, the removal of this obligation may focus attention on ensuring that the specific needs of vulnerable consumers in relation to complaints handling are met more effectively.
- Another also noted that they have a unique position as a DNO to serve customers in a defined area, and that they use their stakeholder network to deliver additional services that support customers including raising awareness of their complaints handling procedures and Notice of Rights.<sup>9</sup>
- One respondent noted that they will engage with the industry on developing best practices for engaging with consumers.

We expect each company to take all reasonable steps to inform consumers about the existence of its complaints handling procedures, for example by electronic communication and/or by publishing details of the existence of the statements in another form. eg. the phone book.

#### Additional points

Two respondents used the opportunity of the consultation to highlight further potential changes to the SI and the licence conditions.

One respondent raised concerns about the Complaints Handling SI, for example whether the definitions 'expression of dissatisfaction' and 'level of prescription' remain appropriate. This is beyond the scope of our current work. While we are not considering carrying out a full review of the SI at this point in time, we will consider these comments in the context of any future changes to the SI.

The other respondent encouraged Ofgem to amend the licence conditions to clarify appropriate communication methods/channels on what we consider to be all reasonable steps, as set out in our consultation letter.

However, we do not consider these changes necessary or appropriate at this time.

#### **Our decision**

Having reviewed the responses to our consultation and alternative options, we have decided to remove the obligation on DNOs and GTs to inform all consumers once a year about the existence of their complaints handling procedures and how to obtain a copy. The

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<sup>8</sup> The SECV is available to DNOs as part of RIIO-ED1. GTs are encouraged to proactively engage with vulnerable consumers in a similar way through the Stakeholder Engagement Incentive and the gas Discretionary Reward Scheme.

<sup>9</sup> 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.

amendment to the SI is available on the legislation website<sup>10</sup> and will be available in print from 22<sup>nd</sup> March 2017. The SI was made on the 16<sup>th</sup> March 2017 and will come into force on the 14<sup>th</sup> April 2017. We consider this amendment to represent the best value for consumers and note that companies retain the obligation to take all reasonable steps to inform consumers about the existence of their complaints handling procedures.

Yours faithfully,

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

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<sup>10</sup> <http://www.legislation.gov.uk/ukxi/2017/428/contents/made>