



Making a positive difference  
for energy consumers

To all retail energy market participants, consumer groups and other interested parties

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Dear Colleague

## **Publication of the Revised Ofgem Confidence Code December 2017**

Today, we have decided to modify the electricity and gas supply licences to amend the current Estimated Annual Cost definition.<sup>1</sup> The change will allow suppliers and accredited comparison sites to come up with their own methodologies for estimating a consumer's annual costs, where they are required to provide one, as long as the estimate meets the following principles:

- Is personalised to the consumer, based on information that is reasonably available to the supplier or comparison site, and on reasonable assumptions where actual data is not available;
- Is based on actual historic consumption wherever this is available (and a best estimate of consumption where it is not);
- Includes non-contingent discounts and non-optional bundled charges, and excludes contingent discounts and optional bundled charges;
- Is applied consistently when used to provide the consumer with a comparison of different tariffs, such that the same assumptions, where relevant, are made for all tariffs that are being compared; and
- Is transparent, and accompanied by a description of the estimate that makes clear to the consumer what it is, what it can be used for, and any assumptions that have been made in its calculation.

We do not generally envisage that it would be appropriate to take enforcement action in relation to the existing Estimated Annual Cost requirements directly affected<sup>2</sup> by this change during the 56-day implementation window. Suppliers and Confidence Code-accredited sites are therefore free to make changes to accommodate the new Estimated Annual Cost definition as soon as practicable should they choose, before the licence modifications formally take effect.

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<sup>1</sup> Ofgem, [Decision: Estimated Annual Cost for domestic consumers](#), December 2017

<sup>2</sup> By directly affected we refer only to the particular conditions and the particular amendments to those conditions which are shown in track changes in the accompanying modification notices.

This document confirms that the Confidence Code wording proposed in Appendix 3 of "[Statutory consultation: Estimated annual costs for domestic consumers](#)" is in effect from the date of this letter's publication. Full details of the new Confidence Code can be found below.

Yours faithfully,

Anthony Pygram

**Partner**  
**Consumers and Competition**  
**Ofgem**

# 1. Definitions

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This section sets out the defined words and expressions used in the Confidence Code and gives their definitions next to them.

<b>Consumer Journey</b>	means the steps a consumer may take when using a Price Comparison Service. Such steps include the Price Comparison Service's energy homepage, the consumer data entry stage, and any other steps before an agreement is made on a specific tariff.
<b>Estimated Annual Cost</b>	has the same meaning as defined in Standard Licence Condition 1.
<b>Historic Tariffs</b>	means those tariffs that have legacy customers on them but are no longer available to new customers.
<b>Partial View</b>	means a view of only those tariffs the consumer can apply to switch to or enter into contracts for, via the Service Provider's Price Comparison Service.
<b>Price Comparison Service</b>	means an internet-based price comparison service for domestic gas and electricity consumers, which can be a website or app.
<b>Service Provider</b>	means the provider of a Price Comparison Service.
<b>Standard Licence Conditions</b>	means the standard licence conditions for gas and electricity suppliers which are available at <a href="https://www.ofgem.gov.uk/licences-codes-and-standards/licences/licence-conditions">https://www.ofgem.gov.uk/licences-codes-and-standards/licences/licence-conditions</a>
<b>Tariff Information Label</b>	has the same meaning as defined in Standard Licence Condition 1.
<b>Wide Results</b>	means all tariffs within the scope of requirement 2A(i) taking into consideration any opt-in filters selected by the consumer.

## 2. The requirements

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### **Requirement one – Independence and impartiality**

- (A) The Service Provider must be independent of any gas or electricity supplier. It can take commission from suppliers but this must not influence how it provides any information or data to consumers.

A Service Provider will be considered independent of any gas or electricity supplier when it is not an affiliate or related undertaking of any supplier or of a company that is an affiliate of any energy supplier.

- (B) A Service Provider must provide impartial advice, not advice that is biased in favour of or against any particular gas or electricity supplier.

A Service Provider will be treated as completely impartial only if it is not intended to operate, and does not have the effect of operating in practice, in a way that is biased in favour of or against any particular supplier.

- (C) The Service Provider must not present any information or data in such a way that is deemed by Ofgem to be, or potentially to be, misleading or confusing to consumers.

- (D) Where a consumer cannot automatically switch to their chosen supplier through the Service Provider's Price Comparison Service, the Service Provider must not recommend an alternative supplier.

- (E) Advertisements from energy suppliers, their agents, affiliates, or brands operating under the licence of a supplier must not be displayed on the home/main page or on the energy price comparison pages of the Service Provider's Price Comparison Service.

- (F) Where a consumer chooses to search by price, or where a consumer does not choose what order their results should be in, results must be presented strictly by cheapest price first.

#### *Commission arrangements messaging*

- (G) The Service Provider must clearly identify any supplier with whom it has a commission arrangement for switches completed through the Service Provider's Price Comparison Service. The requirement for clear identification shall be met where the supplier's name is listed as part of a single list which identifies all suppliers from whom the Service Provider receives a commission.

- (H) The list required in (G) must be prominently displayed, or be accessible from a prominent and clearly-labelled link;
- i. at least once during the Consumer Journey; and
  - ii. on the Partial View results page.

- (I) The Service Provider must provide, alongside the list required in (G), (wherever it appears):
- i. a brief description of the Service Provider's business model if they take commission from suppliers. At a minimum, this description must state whether the Service Provider operates under a commission-based model;

and

- ii. a statement explaining if, and where applicable, how any commission arrangements from suppliers influence the tariffs displayed on the results page, including where a Service Provider provides consumers with the choice to view only tariffs that a consumer can switch to through the Service Provider's Price Comparison Service.
- (J) Messaging to fulfil requirements (G) to (I) must be prominent, clear and intelligible.

### **Requirement two – Tariffs and price comparisons**

- (A) (i) The Service Provider must use all reasonable endeavours to include price comparisons for all available domestic tariffs, where applicable for all available payment types, for licensed suppliers (including for any agents, affiliates, and brands operating under the licence of a supplier), for gas, electricity and dual fuel. The Service Provider is not required to show:
- social tariffs (ie tariffs where consumer eligibility is based upon social or financial circumstances, eg receipt of benefits); or
  - tariffs which the supplier has requested the Service Provider to remove from its Price Comparison Service; or
  - tariffs which are available only to consumers in a specified region, to consumers that are not within that specified region; or
  - tariffs which are exclusive deals between a supplier and another Service Provider.
- (ii) When signposting consumers to, or displaying any results page the Service Provider must not use wording that would in any way imply that it contains every possible tariff available from all suppliers via any means unless this statement is factually accurate. For the avoidance of doubt, descriptions that should not be used include, but are not limited to, wording to the effect of 'whole of market' or 'all tariffs'.
- (iii) Any results page displaying Wide Results must identify the limitations of this view and communicate to consumers what categories of tariffs covered by Requirement two(A)(i) are not shown on the Wide Results page.
- (B) The Service Provider must use all reasonable endeavours to include information on Historic Tariffs for the purposes of comparison if a consumer's current tariff is a Historic Tariff.
- (C) A Service Provider must notify Ofgem in the event of being asked by an energy supplier to remove a tariff from its Price Comparison Service, which to the best of that Service Provider's knowledge is still available to consumers.
- (D) A Service Provider must provide a copy of the Tariff Information Label, accessible either within or from the main results page, for each tariff displayed on the main results page.
- (E) A Service Provider may include price comparisons for meters other than single rate and Economy 7 meters at its discretion.

- (F) A Service Provider is responsible for obtaining, updating and ensuring the accuracy of all data displayed on its Price Comparison Service covering all licensed supplier tariffs (including those of its agents, affiliates and any associated brands).
- (G) Service Providers must ensure that the length of the comparison period defaults to 12 months from the date of comparison; however filters can be created for other comparison periods.

### **Requirement three – Control and management**

- (A) The Service Provider must manage and control its Price Comparison Service and use its own tariff database and calculator.
- (B) A Service Provider will be treated as managing its Price Comparison Service where:
  - i. it has full control over the information content provided on the Price Comparison Service and how that content is presented; or
  - ii. it has that degree of control referred to in (i), even where the Price Comparison Service is maintained by a third party on behalf of the Service Provider.
- (C) However, where:
  - i. a Price Comparison Service is maintained by a third party; and
  - ii. that third party also maintains a Price Comparison Service on behalf of any other Service Provider (whether accredited by Ofgem or not),

the Service Provider will be treated as managing the Price Comparison Service only where that third party maintains the Price Comparison Service entirely independently of the Price Comparison Service of the other provider. But, in any event, the Price Comparison Service may not be maintained by a third party that also manages another Ofgem accredited Price Comparison Service.

- (D) A Service Provider may make its tariff database and calculator available to third parties. Where it does so:
  - i. the third party may state that it uses the Service Provider's calculator or tariff database and state that the Service Provider is accredited to the Confidence Code, but the third party must not use the Confidence Code logo;
  - ii. the Service Provider's arrangements with the third party must provide that the third party may only make such statements in (i) if it has followed the same rules as the Service Provider for making the comparisons and meets the requirements of the Confidence Code; and
  - iii. the Service Provider is responsible for ensuring that the third party complies with the arrangements in (ii). Any failure by the third party to meet the requirements of the Confidence Code can be determined as a breach of the Confidence Code by the Service Provider.

## **Requirement four – Payment methods**

- (A) A Service Provider must provide consumers with an explanation of the following payment methods:
- Standard credit by cash/cheque;
  - Monthly and quarterly Direct Debit;
  - Prepayment meter.

## **Requirement five – Results and filters**

### *Opt-in filters*

- (A) Taking filters into account, a price comparison provided to a consumer must list (on a single page) no fewer than 10 of the cheapest tariffs available in the region where the consumer wants supply. The prices must include VAT (and state that they do so).
- (B) A Service Provider may provide filters so that consumers may search results based on different criteria selected by the consumer (eg the different types of tariff available or an energy supplier's service rating etc), but these must be opt-in only.
- (C) A Service Provider must clearly explain the potential impact to consumers who select an opt-in filter, so that consumers are fully aware of the effect and limitations this may have on the results.
- (D) Where the Service Provider provides a filter for green or environmental tariffs, it must explain the methodology for filtering these tariffs. Green results should be displayed by order of fuel mix then price.
- (E) A Service Provider must provide a facility or follow-through page(s) so that consumers have the ability to view a list of their price comparison results free from any opt-in filters selected.

### *The display of a Partial View*

- (F) A Service Provider may (subject to requirement 5(G) below) display a Partial View as a default option or by offering a filter option before the results page.
- (G) At any point of filtering-which may lead to a Partial View, the Service Provider must ensure that messaging around this choice is prominent, clear and intelligible, so that consumers are aware what view of the market they will see on the results page.
- (H) At any point where the Service Provider displays a Partial View (either as a default or after a filter is applied), the Service Provider must, on the results page:
- i. ensure that the consumer can quickly and easily access the page that shows the Wide Results without re-entering their details or going back to a previous page or link;
  - ii. provide a clear and intelligible statement prominently on the results page explaining that the consumer is seeing a Partial View on the



provide signposting to independent sources of advice on energy efficiency matters that will be of benefit to all energy consumers. At a minimum, we require that the following sources should be clearly signposted by the Service Provider:

- i. Energy Saving Trust;
- ii. Government energy grants calculator; and
- iii. Citizens Advice.

- (F) This signposting should be prominent, clear and intelligible, so that consumers are aware what information is available within these sources.

#### *Warm Home Discount scheme*

- (G) A Service Provider must, during the Consumer Journey, alert relevant consumers to the possibility that if they move to certain suppliers, they could lose support from government energy support schemes such as the Warm Home Discount benefit. This messaging may include signposting to relevant websites.

### **Requirement seven – Accuracy and updating tariffs**

- (A) Prices and price comparisons must be accurate and state when they were last updated.
- (B) A Service Provider must state the date that its Price Comparison Service and database has been updated.
- (C) Ofgem may review any new form of tariff and issue Service Providers a formal direction as to how such a tariff should be treated in relation to compliance with the Confidence Code. The formal direction shall have effect as if it were part of this document.

#### *Estimating the consumer's consumption*

- (D) A Service Provider can estimate a consumer's current spend if the consumer is unable to provide certain information. For example, a Service Provider can estimate consumption by asking questions about the size of property, number of bedrooms, etc. In these cases, it should be clear that this information is estimated.

However, Service Providers must emphasise to consumers the importance of entering accurate information to get the best comparison and should encourage consumers to input their annual consumption figures in order to do this.

#### *Calculation methodology and assumptions*

- (E) Where a Service Provider provides a comparison for a time period, the estimated costs of all tariffs (including a consumer's current tariff) must be calculated as a default using Estimated Annual Cost.

- (F) Not used.
- (G) A Service Provider may, if it wishes, provide an additional alternative methodology to calculate estimated costs for the consumer's current tariff and, where applicable, estimated savings, but this methodology must not be used as a default.

#### *Calculation messaging*

- (H) At a minimum, a Service Provider must provide a link or message on the results page explaining:
- i. what is included in the Estimated Annual Cost, what it is and what it is used for, and outlining any assumptions that have been made in its calculation;
  - ii. details of any alternative methodology where offered; and
  - iii. that the consumer may incur a termination fee if switching to a new tariff.
- (I) Where a Service Provider displays an estimate of the savings a consumer could make by switching to a tariff, as a minimum, a Service Provider must provide a link or messaging on the results page explaining how the savings figure is calculated, including:
- i. what two figures are used to calculate savings and assumptions behind these figures; and
  - ii. that the savings figure is an estimate only, and will change if the consumer's situation changes.
- (J) If an alternative methodology is offered under (G), the consumer must be provided with a link on the results page allowing the consumer to switch from the default methodology to the alternative and vice versa.
- (K) Messaging to fulfil requirements (H), (I) and (J) must be prominent, clear and intelligible.

#### *Updating tariffs*

- (L) A Service Provider must use all reasonable endeavours to:
- update tariffs;
  - add tariffs for a new supplier;
  - correct any errors/issues highlighted by Ofgem;
  - add new tariff information in a manner that complies with the Confidence Code.
- (M) A Service Provider must add new tariff information as soon as possible, but no later than two working days after the details and confirmation of the effective date being provided to it by the relevant energy supplier (or Ofgem), or from the tariff being made available to consumers, whichever is the latter.
- (N) A Service Provider should not include a new tariff on their Price Comparison Service more than six weeks before it becomes available to consumers.
- (O) For the purposes of requirement (N), where the tariff is new because of changes in price of an existing tariff, the date it is 'available to consumers' is to be determined as the date that the price change takes effect.

- (P) A Service Provider must inform Ofgem immediately of any circumstance that prevents it from complying with requirements (L), (M), (N) or (O). Ofgem will consider each individual case on its own merits and determine whether the Service Provider has used all reasonable endeavours to comply with the requirement or is in breach of the Confidence Code.

*Displaying current tariff and spend details*

- (Q) A Service Provider must display the details of a consumer's current tariff, based on the information the consumer has entered, in the format of a Tariff Information Label. The Tariff Information Label must be accessible either within or from the main results page.
- (R) A Service Provider must give the consumer the Estimated Annual Costs before the consumer completes a switch to a tariff through the Service Provider's Price Comparison Service.

**Requirement eight – Audits and monitoring**

- (A) The Service Provider must comply with an annual audit done by an auditor independent of the Service Provider, working according to terms of reference supplied by Ofgem. The cost of each audit will be borne by the Service Provider, unless otherwise advised by Ofgem prior to commencement.
- (B) The Service Provider must comply with audits and monitoring undertaken internally by Ofgem.
- (C) The Service Provider must provide the auditor with access to its premises and to its systems, and all other assistance, that the auditor reasonably requests.
- (D) The Service Provider must provide Ofgem with any information and assistance that it reasonably requests.

**Requirement nine – Complaint handling**

- (A) The Service Provider must establish and operate an effective consumer complaint and enquiry handling procedure and respond to any complaint or enquiry within seven working days of receipt.
- (B) A Service Provider must provide Ofgem with a contact name and number for complaint referrals received in relation to the Service Provider. A Service Provider must acknowledge a complaint referred by Ofgem within two working days and the Service Provider must use all reasonable endeavours to resolve this complaint within seven working days. Ofgem should be copied into any response to the consumer.

# Appendix 1 – Change process

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Any future changes to the Code will involve the following:

- Ofgem to outline issue with recommendations;
- Send recommendations to Service Providers to get their views;
- Ask for supplier views if required (depending on issue);
- Response to be returned to Ofgem in agreed timeframe;
- Ofgem to make definitive ruling and alert all interested parties.