

19 June 2018

To: [futureretailregulation@ofgem.gov.uk](mailto:futureretailregulation@ofgem.gov.uk)

## **Policy consultation: Domestic supplier-customer communications rulebook reforms**

### **Submission by Ombudsman Services**

#### **About Ombudsman Services**

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Ombudsman Services (OS) is a not-for-profit private limited company established in 2002 which runs a range of discrete national ombudsman schemes across different sectors including energy, communications, and housing. Each scheme is funded by the companies under our jurisdiction and our service is free to consumers. We currently have in the region of 10,000 participating companies. Last year we received 246,274 initial contacts from complainants and resolved 72,652 complaints. The company currently employs more than 600 people in Warrington and has a turnover in excess of £30 million.

For consumers, we offer a free and accessible way of resolving complaints, with a focus on swift, impartial resolutions based on principles of fairness. We also use the insights and data we gather through our casework and other sources to help bring about wider improvements which deliver benefits to all consumers, not just those who have turned to us for help.

For businesses, we help resolve disputes with customers in a fast and non-adversarial way, helping with customer retention and brand loyalty. We go beyond individual complaints to identify broader trends which can be a source of innovation. We also use our expertise to help companies identify opportunities for improvement, which can sharpen competitiveness and help build reputation.

#### **Summary**

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OS supports the approach that Ofgem is taking to operate principles based regulation across the retail energy market. The proposals in the current consultation form a part of that wider approach. We agree that principles based regulation will assist in helping to provide enough structure and flexibility for energy suppliers to engage with their customers in a more innovative way and in a way that customers want – putting customers at the heart of what they do.

We also support the move to principles based regulation as it:

- fits well with the approach that OS is taking in operating the Energy Ombudsman (EO) – a preventative ombudsman model; and
- requires the energy sector to work better together, for example, the tripartite working between Ofgem, Citizens Advice (CA) and the EO and how each organisation works with energy providers to reduce consumer detriment and improve the consumer journey for all energy consumers.

We think that the proposed principles have been developed with good insight from consumers and other stakeholders. They strike an appropriate balance in terms of being high level but supported by more detail and prescription where it is required. It will be important that there is close working between stakeholders and energy providers in the sector as new ways of communicating with consumers are explored. Innovation that works should be promoted and where innovation does not work as expected or has unintended consequences then we should all help to identify where that happens and work quickly to reduce any consumer detriment and share the learning.

## Questions

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**1. Do you agree with our proposed reforms to the rules related to supplier-customer communications?**

We do agree with the changes that Ofgem proposes to supplier customer communications. Customers should be able to access the information that they need at the right time to enable them to make the decisions they need to make. As the consultation paper makes clear ‘one size’ does not fit all and enabling innovation and focusing on what customers want is right.

We think that placing the consumer at the heart of sectors, such as the energy sector, is key to drive meaningful improvements to the consumer journey but also to raise business competitiveness and trust within the energy sector. Consumer research is also crucial in looking at how the proposed reforms actually work in practice. For example, the work Ofgem has done via the Consumer First Panels and surveys will continue to be important as well considering what other stakeholders are finding from their consumer research and engagement. For example, OS does undertake survey and focus group work with consumers as well as commissioning independent research looking at consumer complaint behaviour in the UK.

**2. Do you think our proposals make appropriate use of principles and remove the right amount of prescription? Have we gone too far, or not far enough in removing prescription to enable suppliers to innovate?**

The structure and approach proposed seems sensible – broad principles backed up by narrow principles and some prescription looks right. This should allow energy providers and other stakeholders enough structure, information and flexibility to provide consumers with choice and deliver what consumers want in terms of information and the timeliness of that information.

**3. Do you think there are any areas of particular risk to Vulnerable Consumers that are not already addressed in this consultation and/or by the vulnerability principle in the Standards of Conduct?**

We think there is a careful balance within the proposals to engage and inform consumers; to enable energy providers to innovate; and ensure that energy providers consider the characteristics and preferences of their customers, including customers in vulnerable circumstances. As a ‘backstop’ there is sufficient prescription to ensure absolute obligations are fulfilled and there is the vulnerability principle.

Innovation and new ways of doing things bring with them opportunities but also possible unintended consequences, so reviewing what is happening will help promote what is working well and help target things that are not. For example, new ways of communicating with consumers and developments in technology and artificial intelligence can lead to enabling consumers to have greater power in the information and data they control. This is happening in other sectors, for example, in the financial sector with open banking. However, not all consumers will have the same access to information and depending on how they obtain their energy supply, may or may not have the protections in place for the regulated energy sector such as regulation, access to consumer advocacy and the EO for redress. It will be important to understand where these asymmetries lie so that they can be targeted.

**4. Do you support our proposed changes to the rules regarding the (i) content, (ii) format, layout and wording, and (iii) frequency and timing of communications? If not, why not?**

We do support the proposed changes in terms of the content, format, layout, wording – though we do suggest a minor tweak to the assistance and advice principle in this response – and the frequency and timing of communications. As these new principles come into play it will be good to review how they are working and important for all stakeholders – Ofgem, CA, EO, energy providers and others to work closely together to identify any unintended consequences or increased consumer detriment.

**5. Do you agree with the key features of the new principles: (i) “Key Engagement Points”, (ii) “characteristics and preferences”, and (iii) our expectations of suppliers?**

We do agree with the proposed key features of the new principles. They will help to ‘ground’ the principles and ensure that energy providers are making the step change when communicating with their customers. As we highlight in our answer to question 4 above, it will be important to check on how those principles are working when they are introduced and for key stakeholders within the energy sector to work with energy suppliers during this transition to ensure consumers obtain the full benefits of this work and change in focus for the sector. It may be that some energy providers require more support in making the change than others, for example, new entrants or where a supplier is growing at a fast rate.

**6. Do you support our package of proposals to change the current customer communications rules to “encourage and enable” engagement? Please explain your answer, in particular noting any consequences you envisage for consumer outcomes or suppliers’ ability to innovate.**

We agree with the proposals to introduce the principles to encourage and enable engagement by consumers. We think it is the right focus for energy providers to engage with their customers and understand what works for their customers. We also agree that it is not just about looking at the metrics of customers switching but how customers engaging in other ways, for example, quality of service, energy efficiency advice and more intense support and information for consumers in vulnerable circumstances.

Obviously with the on-going roll out of smart meters and more and more consumers being on-line; information is likely to be placed on websites/apps/smart meters. However, not all consumers will have access to on-line and so options and alternatives will continue to be required.

**7. Do you agree with our definition of Key Engagement Points?**

We do agree with the proposed definition of Key Engagement Points in that it is not defined precisely but placing the onus on energy suppliers to think about what are the Key Engagement Points during the year – which will be customer and/or context specific.

**8. Do you support our package of proposals to change the current customer communications rules to ensure consumers are aware of, and can obtain, “assistance and advice”? Please explain your answer, in particular noting any consequence you envisage for consumer outcomes or suppliers’ ability to innovate.**

Again, we are supportive of the proposed principle on assistance and advice. We think it is right to maintain prescription on certain requirements, especially flowing from EU legislation, especially the rules that protect consumers in vulnerable circumstances.

Turning to the specific wording of the principle, we would suggest inserting at 3 c after ‘...any Relevant Ombudsman,...’ the words ‘such as the Energy Ombudsman...’. This would keep the flow of the principle consistent with 3 b and makes the connection with the specific ombudsman operating in the regulated energy sector.

**9. Do you support our proposed changes to the customer communications rules relating to “bills and billing information”? Please explain your answer, in particular noting and consequences you envisage for consumer outcomes or suppliers’ ability to innovate.**

Again, we think that the proposals are sensible and help to ensure that the information customers want on bills is there. We agree that bills are a key communication and so the principle should apply to all domestic energy customers, including prepayment customers.. The proposed principle does enable energy providers to innovate here and fully take account of customer preferences and circumstances.

**10. Do you agree with the distinction between billing information and Bills?**

We do agree with the distinction and the fact that, depending upon the individual circumstances and preferences of the customer, the provision of billing information may be more helpful if it is provided on a more regular basis.

**11. Do you agree our principle reflects the different needs and circumstances of different customer groups, including prepayment customers?**

In line with our answers to question 9 and 10 above we do think the principle is flexible enough to cover the needs and circumstances of all customers, including prepayment customers.

**12. Do you support our proposed changes to the customer communications rules relating to “contract changes”? Please explain your answer, in particular, noting any consequences you envisage for consumer outcomes or suppliers’ inability to innovate.**

We do support the propose principle relating to contract changes. We think it provides a good balance between enabling energy providers to innovate here and ensuring customers obtain the information relating to changes to contracts and pricing to understand what the changes are, how they will affect them and what they can do.

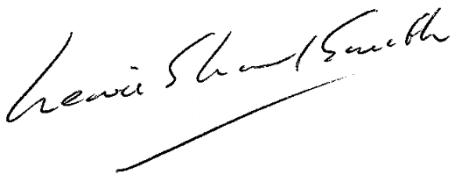
**13. Do you agree with our proposal to no longer require suppliers to provide Annual Statements?**

The research and stakeholder engagement does support the fact that the annual statement is not effective in terms of nudging consumers to engage in the energy sector. So yes, we do agree with the proposal that the Annual Statement is no longer required. However, as highlighted in the paper, customers do find individual pieces of information provided within the Annual Statement useful but just not in the format of the Annual Statement. It is more appropriate in the spirit of principles based regulation for energy providers to work with their customers to understand what their information needs are and what point the information is required.

**14. Do you agree that the intended outcomes of the Annual Statement are reflected in our proposed new principles?**

We think that the package of principles proposed, in particular, the encourage and enable principles can deliver the intended outcomes of the Annual Statement and do so in a much more customised and innovative way.

Yours sincerely,



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**Contact for further information:**

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