



Rachel Clark,
Switching Programme,
Ofgem,
10 South Colonnade,
Canary Wharf,
London,
E14 4PU

24th July 2018

Dear Rachel,

Guaranteed Standards of Performance: Consultation on Switching Compensation

Thank you for the invitation to respond to the above consultation. Bristol Energy is an independent supplier of electricity and gas with a business model that has a regional focus on the South West of England, although we supply customers across Great Britain. We have a mission to fight fuel poverty and be a force for social good.

Executive Summary

Bristol Energy supports the principle that customers should be compensated when they suffer detriment caused by their supplier. However, we believe a prescriptive performance standard regime will only move suppliers away from resolving switching issues for customers and focus on resolving switching issues to avoid the Guaranteed Standards payments wherever possible. This proposal therefore runs counter to Ofgem's stated intent to move to a more principled based regulatory regime.

There is scope for suppliers to differentiate themselves by creating a voluntary arrangement under the Energy Switch Guarantee which we would support. One of the reasons we are not signatories to the Guarantee is the lack of penalties for suppliers who sign-up to the guarantee and fail to meet the principles, and incorporating them would improve the attractiveness of the scheme, although if a GSoS regime is implemented, then the point of the scheme diminishes for us.

We are extremely concerned with Ofgem's proposals that will inevitably lead to suppliers who act in the best interest of customers being liable for compensation even though they are not at fault, and more importantly cannot rectify the situation which has been caused by another party. Ofgem is fully aware that some suppliers are worse than others, a situation that will not be resolved by resorting to collective punishment. We also point out that section 9 (e)(ii) of the current Guaranteed Standards regulations which specifically exempts situations where the party could not prevent the contravention because of the actions of others.

Finally, we remind Ofgem that any compensation costs are socialised across a supplier's customers in the form of higher tariffs. Whilst this will invariably impact those suppliers who have poor processes in this area, Ofgem proposal will impact even the best suppliers who must engage with those poorly performing suppliers through the switching process.

Any Guaranteed Standard regime, if implemented should be complimentary to and not a substitute for Ofgem holding suppliers to account for poor performance. The poor performance of a few suppliers should not be rectified by increasing the regulatory burden on all suppliers.

We have answered your specific questions below, expanding our response as necessary.

Q1. Do you agree that the aims of the Guaranteed Standards are aligned with and complementary to

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the industry-led operation of the Energy Switch Guarantee?

In our view it is an either/or situation. If the GSoS on switching are implemented, then the value of being a part of a voluntary scheme that does not go above and beyond that required by licence is negligible. To date Bristol Energy has remained outside the scheme because we see little value in it, other than it would increase our star rating in the Citizen's advice supplier ranking from sixth to third (June data).

If the principles of the GSoS were to be incorporated into the Energy Switch Guarantee, i.e. Suppliers within the scheme would compensate customers when things go wrong, then we would certainly consider becoming a scheme member as it would then be a scheme that went above and beyond the regulatory obligation.

Q2. Do you agree with our proposed new performance standard for delayed switches?

Bristol Energy currently switches customers within 18 calendar days unless the customer has opted for a later start date, and is therefore supportive of customers being compensated for a delayed switch if this has caused the customer detriment. However, we do not believe an automatic, one size fits all compensation scheme is the best solution.

If implemented then the phrase "entered into a contract with the gaining supplier" needs to be defined in relation to switches orchestrated by 3rd parties, such as price comparison web sites. i.e. does the clock starts from when the customer sign-up with the 3rd party, (which would be the customers perspective), or the date the supplier receives notification from the 3rd party, which is the only reliable timestamp a supplier could use, and is used as the date contract was entered.

Q3. Beyond the licence definition of "Valid Switches", do you believe any additional exemptions are necessary to cover scenarios whereby a switch cannot be completed within 21 calendar days?

We believe the exemptions are sufficient, although we would welcome clarity on the issue raised above regarding 3rd parties, and if necessary include an exemption where a 3rd party delays passing the information to the relevant supplier.

Q4. Do you agree with our approach for losing suppliers compensating consumers?

As a new market entrant we are predominantly a gaining supplier and have very few incidences where a switch has been delayed by the losing supplier. We believe the lack of evidence available for a losing supplier to know that a switch was delayed, will make the process more costly to run than the benefit it will deliver. If a customer contacts a losing supplier and tells them their switch was delayed, then the losing supplier has no way of validating this other seeking evidence from the customer, which adds to the costs to both suppliers and inconvenience to the customer.

In our view, bringing the losing supplier into the frame is unjust as they will be rarely at fault, costly to administer compared to the benefit and more hassle for the customer, as they will have to contact their old supplier to request the compensation and provide evidence to support the claim.

If this Guaranteed Standard is implemented, it is our view that the process should be kept as customer friendly as possible and thus compensation should be from the gaining supplier only. If gaining suppliers find that they have issues with a particular losing supplier frequently causing delays, then they can raise their concerns with Ofgem with evidence to support their concern.

Q5. Do you agree with our proposal to revise this performance standard to align to a new faster



switching requirement in the future?

We do not support this move. We agree that if a GSoS regime is in place at that time then it should be reviewed on the implementation of the new switching arrangements to see if it is still necessary, and if so, whether the current arrangements would work on a simple substitution of “21 days” to “5 days”.

In our view, the faster switching regime is not about switching as soon as possible, but allowing customers to decide the date of their switch, which may be next day if wanted. Many customers will opt to start on the day after their current fixed rate deal ends, or aim for a date like the first of the month. This will complicate the exemption regime, as the number of exemptions for customer request will rise significantly. It also leaves out in the cold customers who have specified a specific date and the supplier fails to meet this request.

We urge Ofgem to review the switching landscape as it is when the new arrangements are implemented, and not assume that a simple change in GSoS from 21 days to five will be the correct move.

Q6. Do you agree with our proposed new performance standard for failure to agree whether a switch is erroneous or not?

As Ofgem rightly identifies, there are numerous reasons why an erroneous switch can occur, there are also numerous occasions where an erroneous transfer is claimed and on investigation are proved not to be the case. The proposed performance standard now places the emphasis on agreeing an erroneous transfer has (or more concerning, has not) taken place rather than correctly identifying the issue. Therefore, the likely scenario is that to avoid compensation, the two suppliers will just agree (or reject) erroneous transfer requests without investigation.

It is also our view that a significant number of erroneous transfers are caused by 3rd parties such as PCWs. Whilst large suppliers may be able to negotiate a back to back agreement with PCW's to compensate where they delivered an erroneous transfer, smaller suppliers probably will not be able to do so. This could, combined with the removal of the Whole of Market obligation reduce the number of suppliers on switching sites still further and hinder competition.

We are also concerned that some suppliers, usually new entrants at the cheaper end of the market do not invest in processes to manage ET requests promptly or have sales techniques that lead to high levels of ETs. By imposing a compensation obligation on both parties, these parties can cause financial damage to their well-intentioned competitors who are powerless to rectify the situation, by not responding to ETs in a timely manner.

To this end we do not support this particular standard although we support the wider intent of compensation for customers where an erroneous transfer occurs.

Q7. Do you agree with our proposed new performance standard to ensure a consumer is not erroneously switched?

We agree that where an erroneous transfer has been properly identified then customers should be compensated for any detriment they have endured, but believe an automated, one size fits all compensation regime is the wrong approach.

We believe that the number of instances where the losing supplier is instrumental in the cause of an erroneous transfer are very low, certainly lower than PCW's. As the gaining supplier is effectively the initiator of the action then we believe responsibility for compensation rests with the gaining supplier alone.



On a practical note, there will be occasions where suppliers will not know the identity of the person owed compensation, such as where the wrong metering point is taken. To this end there needs to be a caveat that covers reasonable attempts to establish the identity of the person owed compensation.

Q8. Do you agree with our proposed new performance standard for sending the “20 working day letter”, as currently required by the ET Customer charter?

This would appear a straight forward process and thus it would be surprising if a supplier could not conform to this standard. If they are not meeting this standard, then the likelihood is they will not be aware that they are not meeting this standard.

This is a good example of where a supplier can seek to adhere to the standard via an automated process, rather than deal with the customers personal circumstances. We see little point in this standard.

Q9. Do you agree with our proposed new performance standard for sending final bills?

We agree that customers should expect, in a majority of cases to receive a final bill within 6 weeks of ceasing to be a customer and are open to the principle of compensation when this is not met. However, we are not convinced an automated, one size fits all approach to compensation is the correct way forward. Where the compensation is the same whether 1 day late or 2 weeks late.

Q10 Do you believe any explicit exemptions are necessary for scenarios whereby suppliers are unable to issue a final bill within six weeks?

Failure to issue a bill in six weeks is nearly always down to the lack of an accurate closing reading, which it is the responsibility of the gaining supplier to procure and provide to the losing supplier, or a dispute between gaining and losing supplier as to what the opening/closing read should be. It is important that these two reads are the same to prevent the customer under or overpaying.

If this Guaranteed Standard is implemented then we believe there should be the following exemptions:

- Where the customer disputes the final bill and a subsequent bill needs to be issued.
- Where the customer has failed to provide a closing reading (except where the customer has an active smart meter)
- Where there is a dispute between gaining and losing supplier on the accuracy of the reading(s).

We also question why this performance standard if implemented would apply to change of supplier, but not a change of tenancy, with the additional exception of where the customer failed to give advance notice that they were relinquishing responsibility for the property.

Q11. Do you agree with our proposed new performance standard for refund of a credit balances?

We support the principle that refunds should be issued in a timely manner and the suppliers should consider compensation where this does not occur. We do not support an automated one size fit all approach irrespective of the size of the credit due. If implemented, then we would prefer that the standard was 10 working days. Backlogs can develop over the Xmas and Easter period where there are two consecutive Bank Holidays, and thus less time to process a credit refund. Moving to 10 working day resolves this problem without significantly impacting consumers.

As with the final bill standards We ask why this standard should not apply on a change of tenancy provided the



customer has provided a forwarding address for the refund to be sent to by cheque.

Q12. Do you believe we should add any other new performance standard?

As we are not in favour of Ofgem implementing its proposals via a prescriptive regime of performance standards for reasons stated above, we are not in favour of any additional performance standards. We also believe Ofgem should, if implemented confirm that it will review these standards when the new switching arrangements are in place.

Q13. Do you agree with our proposed approach to dual fuel switches?

Dual fuel switches, where the customer has both fuels dominate the market, with separate switches for each fuel being the exception. It seems sensible to adopt the approach that the customer is taking a single switching decision, even though they are switching two fuels. As we have stated above we do not support GSoS compensation being spread across gaining and losing supplier, as this complicates matters and increases costs.

Q14. Do you agree that where both gaining and losing supplier are involved in the process covered by the guaranteed standard then both should pay compensation where the standard is breached?

We are opposed to the splitting of the GSoS across gaining and losing suppliers as we feel this is both impractical to implement and complicates the standards in the eyes of customers. For standards A & C, if implemented, the gaining supplier should be responsible for the payment of compensation as they are the initiator of the switch. We recognise that it is conceptually possible for a losing supplier to frustrate and stall a switch, but if a supplier was deemed to be doing so, then they would be in breach of the standard of conduct and Ofgem would take the appropriate enforcement action.

For standard B, as we have stated in our answer to question 6, we do not believe this standard is in the customers interest and could cause detrimental outcomes for customers. That said, if this standard is implemented it would have to be across both suppliers equally, as it requires agreement. Recognising that any supplier without robust processes for managing erroneous transfers could cause their competitors to make significant compensation payments because the faulting supplier has a backlog to manage, which the fault free supplier can do nothing about.

If Ofgem does implement this standard, then we would like a commitment from Ofgem to act swiftly if suppliers informed them that another supplier is persistently failing to respond to erroneous transfer requests in the required timescales to meet the obligation.

We would also like to see Ofgem amend the Confidence code so that PCWs have an obligation not to delay notification of a switch to the gaining supplier beyond 24 hours.

Q15. Do you believe additional safeguards are needed to ensure suppliers are not liable for payments if consumers have acted in bad faith?

We believe it would be prudent to have such safeguards, but it should be set at the level of being deliberately obstructive to cause a guaranteed standard of Service payment. If there is dispute about whether a customer was deliberately obstructive, then the case should be referred to the Ombudsman and not Ofgem.

Q16. Do you agree with the proposed two-thirds to one-third ratio of compensation payments between gaining and losing supplier in the cases of Guaranteed Standards A and C, and an equal share in



the case of Guaranteed Standard B?

As we have stated above we do not support splitting the compensation between gaining and losing supplier for Guaranteed Standards A & C, and thus do not support the proposed split. The gaining supplier is the initiator of the switch and should take ownership of the failure to switch in a timely manner, whether the cause is with themselves, the losing supplier, the PCW or the customer themselves.

We have also stated we do not support Guaranteed Standard B for the reasons listed above, but if implemented then it would have to be on an equal split basis.

Q17. Do you agree that compensation payments where both suppliers are involved should be £30 or £15 in the cases of Guaranteed Standards A and C, and £30 for both suppliers in the case of Guaranteed Standard B?

Q18. Do you agree with our proposals that all other guaranteed standards (D), (E) and (F) should be subject to compensation payments of £30, in line with existing standards?

We do not support the proposal to implement performance standards via regulation, which sets out a flat level of compensation. Currently, as proposed a customer is entitled to the same compensation for failing to receive a 20-day letter as they do for being without power for 12 hours. This is not proportionate. If two suppliers fail to agree on an erroneous transfer, then the customer will receive twice what they would receive for being off supply for 12 hours. We believe compensation should be on the basis of detriment caused, not a flat payment.

In terms of Guaranteed Standard B, the proposed amount would make this the highest GSoS payment proposed in terms of the customer and we would question whether this is proportionate. We also note, that in most cases, this payment will be triggered by one of the suppliers failing to process the erroneous transfer request in a timely manner, and thus one supplier will be making a payment through no fault of their own.

If implemented, then the flat fee should be proportionate to the harm caused, and not used to financially punish the failing (and non-failing) party.

Q19 Do you agree suppliers should be required to make all payments in 10 working days?

Where the supplier has an existing relationship with the customer we believe that the 10 working days requirement is achievable given that the default position is to credit the customer's account unless an alternative payment method is requested. However, where the supplier does not have a relationship with the customer, then payment will need to be made by cheque or bank transfer both of which require the customer's name, in terms of the bank account they would like the cheque payable to, or bank account details for a BACs transfer. This information will need to be sought from the customer, or at the very least consent would need to be gained by the supplier with the details to share them with the other supplier.

This will be challenging within the 10-day window and we would propose that the Guaranteed Standard, if it was to be implemented, should be amended so that it is within 10 days of the breach being identified, or the customer's identity been established whichever is later.

Q20. Do you agree with our proposals to require additional payments to be made for failure to compensate consumers promptly?

We support the principle that the new Guaranteed Standards if implemented should align with existing Guaranteed Standards in this respect including the exemptions and limitations as prescribed by regulation 9



without amendment.

Q21. Do you agree with our proposals to require additional payments to be made by suppliers if they fail to resolve problem?

Whilst we recognise the importance of resolving customers problems in a timely manner. The emphasis must be on resolving the problem, not the speed of resolution. In some cases, this will take time, and in many cases one of the suppliers paying compensation will be unable to influence the speed of resolution as the fault lies with the other supplier, or a 3rd party.

The comparison with network companies and their Guaranteed Standards about restoring power is a false comparison. Firstly, in terms of detriment, the failure to have your account switch is not even in the same league of detriment of having no power. Secondly, DNO's are in control of resolution of the issue, whereas Ofgem's proposals are that suppliers pay compensation irrespective of whether they have the means to resolve the issue or whether that lies with another supplier, PCW or the customer themselves.

Where an issue is not resolved post the Guaranteed Standard, customers should still have recourse to the Ombudsman for additional compensation, and we would suspect the Ombudsman would support such a claim by customers affected.

Therefore, we do not support this proposal.

Q22. Do you agree that the new Guaranteed Standards should be introduced for domestic suppliers only?

As stated above we do not support the implementation of further prescriptive regulation, the cost of which will be borne by customers. There is however no reason why micro-businesses should not get the same level of protection as domestic customers.

Q23. Do you agree that no changes are needed to requirements regarding the provision of information to consumers?

We agree no change is required.

Q24. Do you agree that we should expressly require suppliers to keep accurate records of their Guaranteed Standards performance?

Suppliers already have obligations to report on their performance against the current guaranteed standards. Whilst we believe it would be sensible to report any new standards on the same basis, we do not support the higher degree of granularity that Ofgem is proposing. Such granularity will increase costs and those costs will fall disproportionately on smaller suppliers as the costs are roughly the same irrespective of customer numbers.

Q25. Do you agree that Ofgem should have the power to request an audit of individual suppliers' Guaranteed Standards of performance?

We would be happy for Ofgem to have such power's if it was constrained to Ofgem having concerns that a supplier's performance was "significantly" non-compliant. Ofgem should not be able to use this power on the basis of evidence of minor breaches, but only where it suspects there is significant and systematic failings in the suppliers' performance or reporting.



Q26. Do you agree that we should mandate quarterly GS performance reporting on all suppliers?

Bristol Energy was not aware that reporting on our Guaranteed Standards was optional and believed it to be mandatory. If some suppliers are not reporting to Ofgem as required, then Ofgem should take appropriate action with the suppliers not meeting their obligation.

As stated above we would support reporting any new standards on a par with existing standards, but do not feel Ofgem has justified why the level of granularity of data needs to be increased.

Q27. Do you agree with our plans to publish individual supplier Guaranteed Standard performance?

Adherence of the current standards is in the hands of the supplier concerned and we support publication of these and put our own standards on our own web site. Ofgem's proposed new standards, require suppliers to pay compensation even where the supplier is not a fault and we believe this could create a misleading picture to customers, as a supplier's performance can be affected by the performance of others.

Given the new concept of "blame whether at fault or not" we would not support the publication of the new standards.

Q28. Do you agree with our proposal to retain the existing dispute resolution procedure within the Regulations?

In the interest of customers, we believe Ofgem should relinquish its role in dispute resolution for Guaranteed Standards and allow the Ombudsman to adjudicate. The Ombudsman route is clearly signposted to customers and quite often the payment of Guaranteed Standards may be part of a wider dispute between the supplier and customer. Customers should not have to pursue the resolution of what to them is a single dispute through two separate organisations.

Q29. Do you support the option of higher compensation payments for switches that go wrong where the supplier has attempted to switch the customer faster than five working days during the Switching Programme transitional phase?

We would have thought Ofgem would be keen to see the results of any faster than 5-day switches, to ensure the new arrangements were fit for purpose. By imposing a higher compensation payment, Ofgem will deter such action and thus fail to get the real-life testing that would be beneficial. If anything, suppliers attempting 5-day switches should be given a derogation from the switching performance standard.

Q30. Do you agree with our proposal to allow suppliers and other bodies a two-month implementation period to make the necessary adjustments to comply with the new Guaranteed Standards after we publish our decision?

Bristol Energy would struggle to deliver the proposed changes in a two-month window. We do not accept the ascertain that no system changes would be required as capturing some of the nuances of the proposals would require a system to capture them. For example, that a switch has been delayed where we are the losing supplier.

Along with many suppliers our key systems are provided and maintained by 3rd parties and we would need to agree, in conjunction with other suppliers using the same system the changes required, and schedule them into an already busy release schedule, for changes, both regulatory (e.g Price Cap) and for a better customer experience (e.g. Moving customer communications away from prescription.)



It would make more sense to us to start the new regime from the beginning of the new financial and reporting year if implemented.

I hope you find this response useful. If you have any queries, please do not hesitate to contact me.

Kind regards,

A handwritten signature in black ink that reads "Chris Welby".

Chris Welby
Head of Regulation