

**To all licensed energy
suppliers**

Date: 04 May 2020

Dear Sir/Madam,

The purpose of this letter is to set out Ofgem's expectations for energy suppliers that are involved in a trade sale. We want to ensure that suppliers in such circumstances are ensuring a good customer experience and protecting customers' interests. **We expect all energy suppliers involved in a trade sale to take these expectations seriously.**

Ofgem's principal objective is to protect the interests of current and future energy consumers. We encourage energy suppliers considering a trade sale to speak to us as soon as possible, given the potential risk of consumer harm. It is the responsibility of suppliers involved in a trade sale to adhere to all relevant conditions and requirements and undertake appropriate risk management activities. We highlight a number of key Standard Licence Conditions in the Annex. If we become concerned that a supplier is not taking sufficient steps to prevent and address issues we may consider escalation via compliance and/or enforcement action, where appropriate.

For the purpose of this letter, we define a trade sale as a commercial transaction between energy suppliers that may impact customers, for example selling or buying a group of customer accounts. As a general principle, we consider that trade sales are generally more desirable than regulatory intervention, for example implementing a Supplier of Last Resort (SoLR) process in the event of supplier failure. However, there may also be circumstances in which a commercial transaction may not provide a good outcome for consumers. This could be due to customers experiencing poor outcomes or the transaction resulting in significant costs being imposed across the rest of the market. Ofgem does not support or condone commercial transactions that are likely to result in bad outcomes for consumers overall.

We expect energy suppliers to ensure commercial transactions are in consumers' interest, and executed in a manner which minimises disruption to customers. We expect suppliers considering a trade sale to complete robust due diligence and to be comfortable they have awareness of any potential issues and are prepared to manage these. Suppliers involved in a trade sale should give particular attention to mitigating the risk of consumer harm, maintaining customer service standards, robust customer communications and engaging with Ofgem and other relevant third parties. Further detail on each of these expectations is outlined below.

Risk management

We expect suppliers involved in a trade sale to consider the various risks which may arise throughout the process, for example managing customer confusion regarding the switch of

supplier, or not being able to respond to customer contacts in an acceptable timeframe. The supplier should have mitigations in place to manage these risks, which could include:

- FAQ pages covering common customer queries along with clear steps of what the customer needs to do and when.
- We expect suppliers involved in a trade sale to work together to ensure that customer data is of good quality when transferred to the new supplier.
- Extending opening hours to deal with a potential increase in customer queries.
- Increasing call centre/web chat/email staff resourcing, training and capability.
- Ensuring customers in a vulnerable situation are identified and prioritised. The supplier should consider reviewing what support will be in place for new vulnerable customers, new customers on the Priority Service Register (PSR) and new non-domestic micro business customers, as well as how these customers will be identified once transferred. This should also include review of vulnerable consumers' ability to pay.
- Plans to handle all customer data during the transfer in accordance with prevailing data protection legislation, ensuring security of transfer and retention of data.
- Scheduling of major system/process changes to avoid disruptions during the consumer transfer period.
- Consideration and confirmation of how the new supplier will honour existing customer complaints with the previous supplier (to include direct complaints and those with relevant third parties).
- Consideration and confirmation of how the existing supplier will share details of customers who didn't sign-up directly (eg those through domestic auto-switchers and non-domestic brokers) with the new supplier to ensure communications do not go through the wrong channels (and are in accordance with prevailing data protection legislation as above).
- Consideration and confirmation of how each supplier will manage compliant cheapest tariff message communications throughout the transition. (Customers are entitled to receive information on relevant cheapest tariffs across affiliated suppliers.)
- Any other relevant risk management activities.

Suppliers should give serious thought to risks and have plans in place to manage them before, during and after a trade sale. We expect suppliers to be able to articulate to us key risks to consumer harm, and what they will do to mitigate these risks.

Customer service standards

In advance of agreeing a trade sale, it is helpful for suppliers to articulate to us their commitment to delivering good customer service standards. This may include, for example, setting out call waiting times, call abandonment rates, email turnaround, web chat performance and other customer contact metrics that they expect to deliver before, during and after the on boarding of customers. Where we consider there to be a substantive risk of consumer harm we will generally want to see regular reporting on customer service metrics against clear targets in the weeks following the trade sale.

We expect purchasing suppliers to have plans in place to maintain and/or improve its service standards for its existing customer base in anticipation of the increase in customer contacts from new customers. As above, we encourage purchasing suppliers to set this out to us at the very initial stages of a trade sale, and to put processes in place to achieve these targets. This includes ensuring it can deal with new and existing customer queries without a deterioration in existing levels of customer service. With this in mind, we expect the new supplier to take into account the size of the previous supplier's portfolio in comparison with its existing portfolio when considering call centre / email / web chat / complaints handling resource requirements.

In order to deliver good customer service standards, we expect suppliers to implement additional training where required to customer-facing staff (and others where appropriate). We expect close management oversight of internal communications and training to make sure that quality of customer service is maintained. This will ensure accurate, consistent and up to date information is shared with customers across all communication channels.

Customer communications

We expect suppliers involved in a trade sale to deliver a coordinated communications plan in the periods before and after the trade sale. The communications to current and future customers could include, for example:

- Guidance on the trade sale process, including clarity on timelines and explaining that the previous supplier is no longer supplying energy to the customer and introducing their new supplier.
- Regular updates to customers on the various stages of the process and expected timelines (even if they are estimates to begin with).
- Contact details, complaint process and opening hours of the new supplier.
- For customers signed up through a third party (eg energy broker or auto-switching service) communications should be sent through that appropriate third party to ensure customers are informed.
- Confirmation that for domestic customers on fixed term contracts, their existing T&Cs and tariff will be honoured for the remainder of that contract in accordance with the terms of any such contract, as well as with the requirements of the supply licence, including SLC 22C (Fixed Term Contracts). Details should be provided of any new offers that are available to the customer, clearly indicating where any exit fees or other restrictions on exiting a contract might apply. This should include the new supplier's cheapest tariff if relevant.
- Clarity on whether non-domestic customers will be held to the terms of their existing contract by the new supplier, or clarity on the terms offered if not those previously agreed.
- Guidance for direct debit customers on whether they should cancel their direct debit with the previous supplier and what the process will be going forward. The supplier should also consider reviewing whether direct debit amounts are appropriate.
- Specific guidance and information for Pre-Payment Meter (PPM), Warm Home Discount (WHD) and Feed in Tariff (FIT) customers; customers in debt and vulnerable customers.

- Information for customers on what will happen to any outstanding complaints they had with the previous supplier (ie whether the new supplier will take responsibility for these or whether responsibility will instead rest with the previous supplier). These should include all complaints logged directly with that supplier and any live issues raised with relevant third parties such as Citizens Advice/Citizens Advice Scotland, the Extra Help Unit and the Energy Ombudsman.
- Clear signposting of customers to relevant third parties such as Citizens Advice/Citizens Advice Scotland, the Extra Help Unit and the Energy Ombudsman.
- Any other relevant information.

The above information should be customer focused and communicated across a variety of channels including, but not limited to, both suppliers' websites, social media, SMS text messages, emails, letters, FAQs etc. Suppliers should aim to contact all affected customers multiple times using primarily their preferred method of contact, or via their third party if appropriate. The communications should take into account good practice and all wider regulatory obligations (including Supply Licence requirements) around customer communications.¹

Engaging with Ofgem

Ofgem welcomes early and proactive engagement from suppliers who are considering a trade sale. During initial engagement, we expect to discuss practical arrangements (including timelines, risk management, customer communications and third party engagement) for before, during and after a trade sale. The extent and nature of our engagement with the relevant suppliers will be based on our perception of the risk of consumer harm.

We recognise that the transfer of a large number of customers can present a number of practical challenges. We expect suppliers to give very careful consideration to how such a transition could impact customers before considering a trade sale. We also expect suppliers to allocate appropriate resources and sufficient time to identify and manage risks around the customer transition, to minimise disruption to customers in what may be an unfamiliar and potentially confusing process for them. To help ensure a positive customer experience, we expect a supplier to engage closely with us. We expect most suppliers will manage this transition well, and to have plans in place to manage risks and unexpected challenges.

However, in the extreme, if we become concerned that a supplier is not taking sufficient steps to prevent and address issues, has not undertaken sufficient planning or has not completed adequate due diligence, we may initiate compliance engagement. In more serious cases we may discuss issues at Ofgem's Enforcement Oversight Board with a view to taking more formal action. We will, of course, take the specific circumstances into account, but our expectation is that suppliers involved in a trade sale will have planned diligently and that actions will have been taken to mitigate risks to customers.

Engaging with other third parties

We expect both suppliers to provide updates and clear communications to all relevant third party organisations throughout the trade sale process. This includes consumer bodies such as Citizens Advice/Citizens Advice Scotland, the Extra Help Unit and the Energy

¹ Ofgem's Supply Licence Guide: Information for Consumers
https://www.ofgem.gov.uk/system/files/docs/2019/02/licence_guide_information_for_consumers_2.pdf

Ombudsman. This communication enables the purchasing supplier to understand the existing relationship and ensures customers are receiving up-to-date, consistent information from third parties. This could potentially reduce customer contacts to the purchasing supplier.

Summary

This document sets out our expectations of energy suppliers involved in a trade sale. Our aim is for suppliers considering a trade sale to make all reasonable efforts to ensure any transfer of customers takes place as seamlessly as possible, with clear and comprehensive customer communication. We encourage proactive engagement with us and other third parties covering progress, customer communications and risk management before, during and after the trade sale.

We will engage with the supplier throughout the process, and will address any compliance issues fairly and pragmatically, however, it is the supplier's responsibility to ensure the best customer outcomes are achieved.

In addition to the expectations set out in this letter, as part of our Supplier Licensing Review we are considering whether we should introduce specific requirements for suppliers in relation to trade sales, particularly if a trade sale was to subvert or distort the Supplier of Last Resort process. We sought stakeholder views on an initial set of proposals in October 2019², and expect to consult further later this year.

If you have questions about this document, please contact your Ofgem account manager or Retail.Conduct@ofgem.gov.uk.

Yours faithfully,



Tessa Hall
Head of Retail Compliance
Conduct and Enforcement

² Ofgem, [Supplier Licensing Review: Ongoing requirements and exit arrangements](#), October 2019

Annex – key areas of focus when contemplating a trade sale

Suppliers should give particular attention to the following areas when contemplating a trade sale, and ensure they have appropriate risk management in place to minimise harm.

The following Supply Licence Standard Conditions (SLCs) should be kept in mind at all times:

- **SLC 0 and SLC 0A:** Treating Customers and Microbusiness Consumers Fairly.
- **SLC 14 – 14A:** Customer Transfer Blocking; 14A: Customer transfer.
- **SLC 21B:** Billing based on meter readings.
- **SLC 31E - 31I and 32 - 32A:** Domestic Customer Information (*domestic only*):
31E: Overarching requirements; 31F: Encouraging and enabling engagement;
31G: Assistance and advice information; 31H Relevant Billing Information, Bills and Statement of Account; 31I: Contract changes information (notifications of price increases, disadvantageous unilateral variations and end of fixed term contracts);
32: Reporting on performance; 32A: Power to direct suppliers to test consumer engagement measures.

All transactions must of course comply with relevant licence and consumer protection requirements.