

Rebecca Pickett
RIIO Price Controls, Networks
Ofgem
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LONDON
E14 4PU

9 April 2021

Dear Rebecca

Fair Treatment Guidance

Thank you for the opportunity to respond to the above consultation. This letter should be treated as a consolidated response on behalf of UK Power Networks' three licensed distribution companies: Eastern Power Networks plc, London Power Networks plc, and South Eastern Power Networks plc. It is not confidential and may be published on Ofgem's website.

We are Great Britain's largest electricity Distribution Network Operator (DNO), dedicated to delivering a safe, secure and sustainable electricity supply to 8.3 million homes and businesses. Our company vision is to be consistently the best-performing DNO in the UK within an agreed set of values: integrity; respect; continuous improvement; responsibility; unity; and diversity and inclusiveness. Fair and equitable treatment of all consumers is firmly embedded in our culture.

We are therefore supportive of the four broad principles that GDNs and their representatives must observe in their dealings with consumers. Our feedback is mainly concerned with how these principles would be applied in practice and used to assess potentially negative outcomes. In addition, we would recommend the inclusion of worked examples alongside the descriptions of the Standards of Conduct in order to provide a more practical context. We comment on these points in more detail in the appendix to this letter.

Please note that our comments relate to the application of the Guidance to GDNs in the context of Standard Special Condition (SSC) D21. If similar approaches are to be followed in the electricity sector, careful thought would need to be given to how to approach the issue given the different levels of interaction with consumers in the electricity sector and the different levels of interruptions to supply.

I hope that our response is helpful. If you have any questions, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'James Hope', with a stylized flourish at the end.

James Hope
Head of Regulation & Regulatory Finance
UK Power Networks

Copy: Paul Measday, Regulatory Returns & Compliance Manager, UK Power Networks

Appendix

Fair Treatment Guidance

- **Section 3 – Scope of the Standards of Conduct**

Subsection 3.2 of the Guidance “requires” GDNs to identify consumers in vulnerable situations in an appropriate and effective manner and to take account of any consumer vulnerability when interacting with these consumers. We note this does not align with the corresponding section of SSC D21 (clause 4(d), Part A: Achieving the Standards of Conduct), which states that licensees or their representatives should “seek to” identify such consumers. Subsection 3.2 of the Guidance implies that it is an absolute obligation to identify every consumer in a vulnerable situation and take account of such vulnerability. In addition, we would welcome greater clarity from Ofgem on the terms “appropriate” and “effective” where these are used in the context of identifying consumers in vulnerable situations. Examples of appropriate and effective measures would be helpful in this regard.

- **Section 4 – The broad principles to which GDNs must have regard**

We have the following observations on the table presented in subsection 4.3.

- We recommend that the description of each Standard of Conduct is accompanied by a worked example illustrating how the Guidance would be applied in practice. By way of an example, one of the tests includes the requirement for GDNs to “act promptly to put things right when they make a mistake”. It is not clear how this requirement extends to management of a complaint where, through human error or circumstances beyond its control, a GDN fails to deliver promptly on a commitment to rectify an issue for a consumer and resolves the matter later than originally promised. It could be interpreted from the Guidance that in this scenario the GDN would be in breach of SSC D21 – although this would seem severe for a single case of a delay in resolving a complaint where the incentive regime surrounding complaints performance is set up to cater for such a scenario. We would welcome further clarity from Ofgem on this point to avoid double jeopardy.
- We would like to draw Ofgem’s attention to the following point in respect of considering consumers in vulnerable situations. The accompanying text states: “GDNs must satisfy themselves that their actions are resulting in all vulnerable consumers being treated fairly.” It is our view that GDNs will only be able to do so in relation to known vulnerable consumers. Notwithstanding the requirement in clause 5 of SSC D21 for licensees to work with “relevant organisations” to facilitate the identification of vulnerable consumers and their particular circumstances, there could quite reasonably be cases where GDNs are not made aware of vulnerable consumers or the extent to which they are considered vulnerable. Furthermore, given that vulnerability can be transient in nature, resulting in a temporary detrimental impact on a consumer’s wellbeing, finances or health, the ability of the licensee to be 100 per cent certain that they have addressed all vulnerable customers in every instance may be infeasible.

We note from the corresponding consumer outcome that Ofgem would expect consumers' individual vulnerable situations to be taken into account by a GDN in every interaction. As observed above, this may not be possible in every case. In addition, it should be recognised that any proposal to implement a similar approach in the electricity sector would require careful consideration and appreciation of the context given the different levels of interaction between DNOs and consumers and the different levels of interruptions to supply.

- **Section 5 – How Ofgem applies the Standards of Conduct**

- Subsection 5.1 cites a “compliance threshold” among the themes relevant to Ofgem’s application of the Standards of Conduct; the others being the Customer Objective, the broad principles set out in the Fair Treatment Guidance, and a fairness test. It is not immediately obvious where “Customer Objective” and “fair” are defined, notwithstanding the statement in paragraph 5.2 that they are defined within the SSCs. It would be better and easier to use the Guidance if SSC D21 and relevant definitions were included within the document, or at the very least, accessible via hyperlinks.
- We would welcome further clarity from Ofgem on how any potential breaches of the threshold would be assessed and how a confirmed breach would be termed and what level of financial exposure Ofgem consider may be applicable in such instances.