



Information Commissioner's Office

The Information Commissioner's response to Ofgem's Forward Work Programme 2016-17

The Information Commissioner has responsibility for promoting and enforcing the Data Protection Act 1998 ("DPA"), the Freedom of Information Act 2000 ("FOIA"), the Environmental Information Regulations ("EIR") and the Privacy and Electronic Communications Regulations 2003 ("PECR").

The Commissioner is independent from government and upholds information rights in the public interest, promoting openness by public bodies and data privacy for individuals. He does this by providing guidance to individuals and organisations, solving problems where he can, and taking appropriate regulatory action where the law is broken. The Commissioner welcomes the opportunity to respond to the Forward Work Programme.

The DPA applies to the processing of "personal data", placing obligations on organisations that wish to process personal data and giving individuals rights in respect of their own personal data. Personal data can include information that obviously relates to an individual (for example their name, contact details and account details) as well data that less obviously relates to them (for example smart meter derived consumption data linked to a particular Meter Point Administration Number (MPAN)).

Individuals have a fundamental right to respect for their private life guaranteed under Article 8 of the European Convention on Human Rights (ECHR) and Article 7 of the Charter of Fundamental Rights of the European Union (the Charter). Article 8 of the Charter gives individuals a specific fundamental right to the protection of their personal data.

We note that a number of areas of work referred to in the Forward Work Programme engage (or have the potential to engage) data protection and privacy considerations. These include the smart meter rollout, the proposed Significant Code Review on half-hourly settlement, the potential for sharing personal data with third party intermediaries and the implementation of remedies proposed by the CMA following its investigation of the energy market. It is important that data protection and privacy concerns are considered at an early stage, as failing to address these concerns has the potential to undermine public trust and

confidence in projects such as the smart meter rollout and the energy industry as a whole.

In view of the above, and as referred to in our response to Ofgem's recent open letter "*Half-hourly settlement (HHS): the way forward*"¹, we are keen to engage with Ofgem and other relevant parties, such as the CMA, to ensure that privacy and data protection issues are given proper consideration where necessary.

¹ <https://ico.org.uk/about-the-ico/consultations/ofgems-half-hourly-settlement-the-way-forward/>