

# **Response to Ofgem consultation on the Forward Work Programme 2016-17**

19 February 2016

# Ofgem Consultation on the Forward Work Programme 2016-17

## Ombudsman Services' (OS) response

### 1 Summary - About OS

Established in 2002, The Ombudsman Service Ltd (TOSL) is a not for profit private limited company which runs a number of discrete national ombudsman schemes across a wide range of sectors including energy, communications, and property.

We are an independent organisation and help our members to provide independent dispute resolution to their customers. Each scheme is funded by the participating companies under our jurisdiction. Our service is free to consumers and, with the exception of an annual subscription from Department of Energy and Climate Change (DECC) for the Green Deal, we operate at no expense to the public purse. OS governance ensures that we are independent from the companies that fall under our jurisdiction and participating companies do not exercise any financial or other control over us.

We have in the region of 10,000 participating companies. Last year we received 220,111 initial contacts from complainants and resolved 71,765 complaints. We saw a year on year increase in complaints of 118% between 2013 and 2014 and a further 35% increase between 2014 to 2015. In the energy industry alone we have witnessed a 336% increase in complaint volumes between 2013 and 2015. The company currently employs more than 600 people in Warrington and has a turnover in excess of £27 million.

In July 2015 the EU Alternative Dispute Resolution Directive (the ADR Directive) came into force requiring all member states to ensure that ombudsman or ADR schemes are available in every consumer sector. The Department for Business Innovation and Skills, the government department responsible for implementing the ADR Directive in the UK, called upon the market to plug the gaps where no ADR provision existed and

to coincide with this in August 2015 we formally launched our new portal (<http://www.consumer-ombudsman.org>). The launch of this website was welcomed by BIS and means that consumers can raise a complaint about a product or service in any sector where there is no existing redress provision - including retail, travel and home improvement.

Our complaints resolution service operates once a company's own complaints handling system has been exhausted, and we have the authority to determine a final resolution to each complaint. Our enquiries department handles primary contacts and makes decisions on eligibility. If a complaint is not for us, or has been brought to us too early, we signpost the consumer and offer assistance. Eligible complaints are then triaged. The simplest can be resolved quickly, usually by phone in two or three hours. Around 10% are dealt with in this way. For the majority of complaints we collect and consider the evidence from both parties, reach a determination and seek agreement; about 55% are settled like this. The most complex cases require a more intensive investigation; they may require more information and lead to further discussion with the complainant and the company to achieve clarification. The outcome will be a formal and binding decision.

Traditionally our key focus has been on handling individual complaints and ensuring that consumers, where appropriate, receive redress. In future we will take a much more proactive role. Firstly, through identifying and tackling issues in individual companies, and making recommendations to improve customer service and complaint handling. Secondly, by identifying systemic industry wide issues and either making recommendations for improvement, or referring them to the appropriate body for action. This will allow us to make a stronger contribution to tackling consumer detriment in the sectors in which we operate, and in addressing emerging problems before they become systemic.

We are 'Good for Consumers and Good for Business'.

For consumers, we offer a free, fast and accessible form of civil justice with no requirement for legal representation or specialist knowledge, and with a particular focus on access for vulnerable consumers. We ensure that complaints are dealt with swiftly

in an impartial manner, and we make decisions based on what is fair and reasonable rather than narrow remit of the law.

For businesses, we offer a fast and low-cost alternative to the courts, and make decisions based on expertise in industries. By looking to resolve disputes, we promote brand loyalty and repeat purchasing as well as building reputation and trust. We offer guidance on improving standards of service hence sharpening competitiveness. We go beyond individual complaints to find broader trends which can be a source of innovation.

More broadly, we provide an efficient and effective means of addressing consumer detriment and building business capability without recourse to the public purse. We take pressure and cost away from small claims court and legal system and help to build consumer confidence which bolsters the economy.

## **2 Specific response to the consultation**

OS welcomes the opportunity to respond to the consultation. Whilst the consultation does not set out any specific questions OS has picked out key areas and commented accordingly below:

### *General comments:*

The forward work programme for Ofgem is impressive in terms of scope, range and potential impact. Ofgem and OS are working together on the Lucerna Partners forward looking Review of Ombudsman Services: Energy and OS will continue to progress that work.

Clearly the Competition and Markets Authority (CMA) market investigation report will have a major impact on Ofgem's forward work programme and, as highlight, Ofgem will need to consider and act upon that report when it is published. Will Ofgem then consult on any changes to your work programme?

Ofgem has a challenging work programme with a considerable change agenda attached to it. OS looks forward to working with Ofgem and the sector more widely in

terms of improving complaints handling; which will bring benefits for consumers and energy companies in terms of resolving complaints as early as possible.

*How are we going to achieve it?*

The forward work programme does highlight the Internal Strategic Transformation Programme as the catalyst for change at Ofgem and the focus is to make a real difference for consumers. OS clearly shares that focus - to make a real difference for consumers. Following the Lucerna Partners Review, Ofgem and OS are working together on a range of areas, including working with the whole sector to identify high impact events. This clearly links to Ofgem horizon scanning to understand potential changes in the sector and how best to accommodate those changes not just in a regulatory sense but also in a consumer protection redress sense.

*Effective Competition:*

Effective competition is a factor in helping to protect consumer interests but there also needs to be effective regulation that ensures markets operate effectively. There are examples of markets that have failed consumers even though there is effective competition in place, for example, the financial services sector.

OS welcomes the move from prescriptive rules to principles based rules and outcomes in the work Ofgem is doing on future retail regulation (FRR). OS thinks this is the right way forward and has begun discussions, through the work on implementing the Lucerna recommendations, with various people within Ofgem around having a shared understanding of key principles such as fairness.

Ofgem is consulting separately on FRR and OS will respond to that consultation as well. OS attended a recent Ofgem stakeholder event on FRR. The general impression from that event is that the transition from prescriptive rules to principles based rules is going to be a journey. OS understands that Ofgem has taken this into account and that Ofgem's proposal is to focus initially on the licence condition relating to domestic sales and marketing conducted over the phone or face to face (SLC 25).

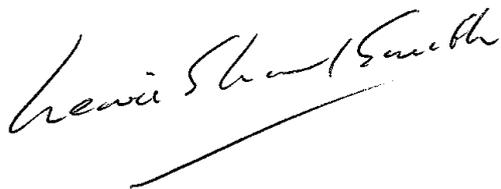
OS recognises that this is a sensible way forward but equally OS is mindful of the need and value of having a cohesive, structured and timely approach to introducing such a change.

Within the Lucerna project there is a major work stream around data strategy and publication. We look forward to working with Ofgem, Citizens Advice and the sector more generally to deliver data that is accurate, timely and that is published in a sensible way so that consumers and the sector can fully understand the data and its implications.

Ofgem has also agreed a real terms reduction in budget of 15% over the next five years. OS is mindful that independent redress in the energy sector is paid for by the industry and this has an impact on consumers. OS is committed to ensuring that it plays a key part in helping to improve complaints handling across the sector and providing data and information to identify issues and trends, for example, around switching and smart meters. Again this will benefit both consumers and energy companies.

OS is happy to discuss our comments in more detail and continue to work with Ofgem as we have indicated in this response.

Yours sincerely



**Lewis Shand Smith**  
**Chief Ombudsman & Chief Executive**  
19 February 2016