

Priority Services Register Review: Statutory Consultation

Statutory Consultation

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Overview:

The current Priority Services Register (PSR) licence provisions put obligations on energy companies to provide certain non-financial services free of charge. These services relate to safety, access and communication and must be offered to specified groups of domestic customers.

In our Consumer Vulnerability Strategy, we committed to review the PSR arrangements. We want to ensure that they are fit for purpose and fully meet the needs of customers in vulnerable situations.

Following a review in 2014, we issued a consultation in December 2015. This included a draft impact assessment and draft licence conditions for suppliers and network operators.

We have considered responses to the consultation. We now seek your views on a set of revised proposals and draft licence conditions set out in this statutory consultation. Subject to reviewing responses to this consultation, we expect to publish licence modification decisions in summer 2016 and propose that licence changes would take effect no later than 56 days after publishing the modification decisions.

Context

Consumer vulnerability is at the heart of our Corporate Strategy. The consumer outcomes in this strategy have helped shape our Consumer Vulnerability Strategy (CVS) which sets out our approach and our expectations for companies to identify and tackle consumer vulnerability. Alongside the CVS we published a work plan which included a commitment to review the Priority Services Register (PSR), which is the subject of this statutory consultation.

We want to ensure PSR arrangements are fit for purpose and fully meet the needs of consumers in vulnerable situations. We want to strengthen identification of vulnerability by industry. In particular we want the PSR provisions to give companies the flexibility to achieve positive consumer outcomes. To enable this we have relied on a principles based approach in the design of these regulations. We are issuing this statutory consultation as the next stage in developing the regulatory framework to meet these goals.

Associated documents

Consumer Vulnerability Strategy, 2013

<https://www.ofgem.gov.uk/publications-and-updates/consumer-vulnerability-strategy>

Electricity Distribution Stakeholder Engagement and Consumer Vulnerability (SECV) Incentive Guidance, April 2016

https://www.ofgem.gov.uk/system/files/docs/2016/04/electricity_distribution_secv_guidance_document.pdf

Gas Discretionary Reward Scheme Guidance, December 2014

<https://www.ofgem.gov.uk/publications-and-updates/decision-arrangements-first-gas-discretionary-reward-scheme-drs-under-riio-gd1>

Priority Services Register Review – Final Proposals, 2015

<https://www.ofgem.gov.uk/publications-and-updates/priority-services-register-review-final-proposals>

Research into the Priority Services Register and non-financial support for vulnerable energy consumers by Ipsos Mori, 2013

https://www.ofgem.gov.uk/sites/default/files/docs/2013/07/quant-psr-research-mori-for-consumer-vulnerability-strategy-june-2013_0.pdf

Research to inform Ofgem’s review of the Priority Services Register by Ofgem’s Consumer First Panel, 2013

<https://www.ofgem.gov.uk/sites/default/files/docs/2013/07/consumer-first-panel---report-on-priority-services-register-june-2013.pdf>

Review of the Priority Services Register, 2014

<https://www.ofgem.gov.uk/ofgem-publications/88552/condocpsrreview-pdf>

Review of the Priority Services Register – update and next steps, 2015

<https://www.ofgem.gov.uk/publications-and-updates/review-priority-services-register-update-and-next-steps>

Social Obligations Annual report, 2014

https://www.ofgem.gov.uk/sites/default/files/docs/2015/09/annual_report_2014_final_0.pdf

The future of retail market regulation (consultation), 2015

<https://www.ofgem.gov.uk/publications-and-updates/future-retail-market-regulation>

Vulnerable Consumers and the Priority Services Register – A report prepared for Ofgem by Britain Thinks, 2013

https://www.ofgem.gov.uk/sites/default/files/docs/2013/07/vulnerable-consumers-and-the-priority-services-register-june-2013-%28bt%29_0.pdf

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Executive Summary

Consumer vulnerability is a key priority for Ofgem and our forward work plan has a specific focus on this. Energy supply and distribution network companies have a responsibility to empower and protect customers in vulnerable circumstances through obligations placed in their licences and other legal requirements including the Equality Act. Ofgem's Consumer Vulnerability Strategy¹ (CVS) sets out the broad approach to identifying and tackling consumer vulnerability in the energy market.

Since the publication of the CVS in 2013, Ofgem has worked with industry and consumer groups to facilitate the adoption of the CVS approach. We are pleased with some of the progress made in this area whilst acknowledging that more needs to be done to ensure a more consistent understanding of consumer vulnerability.

We expect energy companies to place consumers at the heart of their operations and as part of this, take all reasonable effort to identify vulnerability during their interactions with their customers. The CVS describes vulnerability as:

When a consumer's personal circumstances and characteristics combined with aspects of the market to create situations where he or she is:

- *Significantly less able than a typical consumer to protect or represent his or her interests in the energy market; and/or*
- *Significantly more likely than a typical consumer to suffer detriment, or that detriment is likely to be more substantial*

We are now seeking to adopt the spirit of the CVS approach to identifying vulnerability in companies' licence obligations through this statutory consultation on proposed changes to the priority services register (PSR) licence conditions.

Embedding these core principles in companies' licence conditions

Our proposals for revision will require companies to move away from a 'box ticking' approach and improve identification of consumer vulnerability more in line with the broader CVS approach. Currently, there is a requirement on energy companies to provide certain services free of charge (non-financial services) relating to safety, access and communication to specified groups of customers. We identified a number of issues with the current PSR arrangements:

- **Eligibility** is currently defined by specific groups, but most eligible customers are not registered.² There are also customers who do not meet the current eligibility criteria, but who would benefit from receiving PSR services;

¹ <https://www.ofgem.gov.uk/ofgem-publications/75550/consumer-vulnerability-strategy.pdf>

² June 2013, Ipsos MORI UK Limited and Ofgem, <https://www.ofgem.gov.uk/ofgem->

- The provisions for offering **services** do not currently allow flexibility for companies to adapt their service offering to best meet individual consumers' needs, including accounting for technological advances;
- The arrangements for **recording and sharing vulnerability data** across suppliers and network operators are inconsistent and inefficient; and
- There is limited **awareness** of the PSR and what it offers. Our evidence shows that only 24% of consumers are aware of any non-financial support provided by energy companies for customers in vulnerable situations.³

The collective effect is poor outcomes for consumers in vulnerable situations. With revised PSR licence provisions, we believe companies can do more to deliver better outcomes for consumers needing additional support.

We consulted on proposals to revise PSR arrangements in December 2015. We have reviewed responses to the consultation and conducted further stakeholder engagement. We now seek your views on these proposals:

Eligibility and identifying customers

- Making it the suppliers' responsibility to, during the course of their interactions with them, take all reasonable steps to identify customers in vulnerable situations whose personal characteristics or circumstances mean they are likely to benefit from PSR services;
- Requiring network operators to set up practices and procedures to identify customers in vulnerable situations; and
- Introducing broader eligibility criteria for assessing a customer's vulnerability in line with the definition of vulnerability in our Consumer Vulnerability Strategy.

Services

- Suppliers to offer free non-financial services focused on delivering consumer outcomes outlined in their licence conditions rather than a prescriptive set of services, addressing communication, safety and access needs and reflecting a shift towards a principles-based regulatory approach; and
- Network operators to continue offering specific non-financial services free of charge to customers in vulnerable situations to address communication, safety and access needs.

[publications/75553/quant-psr-research-mori-consumer-vulnerability-strategy-june-2013.pdf](https://www.ofgem.gov.uk/ofgem-publications/75553/quant-psr-research-mori-consumer-vulnerability-strategy-june-2013.pdf).

³ <https://www.ofgem.gov.uk/ofgem-publications/75553/quant-psr-research-mori-consumer-vulnerability-strategy-june-2013.pdf>

Data recording and sharing

- Companies to record relevant data about PSR customers with identified vulnerability needs using new agreed vulnerability categories, within the parameters of any laws related to data protection and/or privacy; and
- Companies to share relevant data about their customers in vulnerable situations with each other using improved “needs codes”⁴ and through the appropriate industry mechanisms, and to adopt these new arrangements from June 2017.

Awareness of priority services

- Suppliers to promote the PSR in innovative ways to make more customers aware of the support available; and
- Where feasible, companies should collaborate with consumer groups and other third parties to develop customer advice and information materials on the PSR to generate better awareness.

Compliance and performance monitoring

- We will continue monitoring supplier performance through our Social Obligation Reporting (SOR). We will consider improving the SOR and developing new tools to assess performance; and
- We will monitor network operator performance through existing incentive schemes. These incentives apply to Distribution Network Operators (DNOs) and Gas Distribution Network Operators (GDNs).
- We also expect IDNOs, IGTs⁵ and other relevant licence holders to work with the industry in the best interest of consumers in vulnerable circumstances. They also have the same licence condition requirement placed on them as the other network operators.

Next steps

We seek your views on our proposals to revise the PSR licence conditions. Please send responses to vulnerability@ofgem.gov.uk by close on **15 July 2016**. Subject to reviewing responses to this consultation, we envisage publishing licence modification decisions in summer 2016 and propose that licence changes would take effect no less than 56 days after the publication of the decisions.

⁴ The Safeguarding Customers Working Group (SCWG) is an industry-led group developing a set of “needs codes” and vulnerability categories to allow for consistent PSR data recording and sharing.

⁵ Independent Distribution Network Operators (IDNOs) and Independent Gas transporters (IGTs)

1. Background

Chapter Summary: In December 2015 we consulted on proposals for enhancing Priority Services Register (PSR) arrangements. In this chapter we recap the key features of our proposals and their intended effects. We note our intended licence modifications; our assessment of impacts; and next steps.

Policy development process

1.1. Reforming PSR arrangements is a key focus area in our Consumer Vulnerability Strategy and lies at the heart of our work plan. We want to ensure PSR arrangements are fit for purpose and meet consumers' needs, and have been developing proposals to meet these goals for some time. We have engaged with stakeholders throughout this process, including hosting workshops; conducting multiple consultations and commissioning research.

1.2. We set out our detailed proposals in December 2015 including draft licence conditions.⁶ The overarching policy intent we proposed in December 2015 has not changed and is reflected in the proposals set out in this document.

Key features of our proposals and their intended effect

Eligibility and identifying customers

1.3. Our proposals will make it suppliers' responsibility to identify customers whose situations mean they are likely to benefit from PSR services during the course of their interactions with them. Network operators will be required to set up practices and procedures to identify consumers in vulnerable situations.

1.4. We propose introducing broader eligibility criteria for assessing a customer's vulnerability, reflecting a shift towards more principles-based regulation. We propose retaining core groups for the services offered by network operators and adding "families with children aged five and under" to these groups.

Services

1.5. Suppliers will be required to offer services outside those listed in their licence conditions to customers who need them, where it is reasonably practicable to do so. Electricity network operators are empowered to do the same. This provision has also been applied to gas network operators.

⁶ December 2015, Ofgem <https://www.ofgem.gov.uk/publications-and-updates/priority-services-register-review-final-proposals>.

Data recording and sharing

1.6. Suppliers will be required to record relevant data about PSR customers with identified vulnerability needs using new agreed vulnerability categories, within the parameters of data protection and privacy laws.

1.7. Networks operators⁷ will be required to have procedures and processes in place to identify domestic customers with identified vulnerability needs using the new agreed vulnerability categories, within the parameters of data protection and privacy laws.

1.8. We propose that all companies share relevant data about their customers in vulnerable situations with each other (within the parameters of data protection / privacy laws) using improved “needs codes” and through the appropriate industry mechanisms, and adopt these new arrangements from June 2017.

1.9. We want suppliers to promote the PSR in innovative ways to make more customers aware of the support available. We urge companies to promote the PSR through the single brand name “Priority Services”. We also want to see companies collaborate with consumer groups and other third parties to develop customer advice and information materials on the PSR.

Compliance and performance monitoring

1.10. We will continue monitoring supplier performance through our Social Obligation Reporting (SOR)⁸. We will consider improving the SOR and developing new tools to assess performance. We will also consider the PSR as part of our work on considering the future of retail market regulation.

1.11. We will continue monitoring DNOs’ performance in providing these services, through existing licence condition reporting requirements and the Stakeholder Engagement and Consumer Vulnerability Incentive. We will continue monitoring GDNs’ performance in collaborating and providing these services through the Discretionary Reward Scheme (DRS).

1.12. We expect IDNOs, IGTs and other relevant licence holders to also provide these services in accordance with their obligations under condition 17 and condition 10 of their respective licences. We expect these companies to work with the industry in this area to ensure the interest of consumers in vulnerable circumstances are

⁷ By network companies, we mean Gas Distribution Networks (GDNs) and Distribution Network Operators (DNOs) and Independent Gas Transporters (IGTs) and Independent Distribution Network Operators (IDNOs).

⁸ The SOR summarises domestic suppliers’ performance on debt, disconnection, prepayment meters and services for consumers in vulnerable situations.

preserved regardless of whether such consumers are on independent's networks or other networks.

1.13. We are consulting on the replacement of Standard Condition 26 of the Gas and Electricity supply licences. We are also consulting on amendments to Standard Condition 10 of the Electricity Distribution Licence, which apply to electricity network operators, and Standard Condition 17 and Standard Special Condition D13 of the Gas Transporter licence, which apply to gas network operators (the proposed changes). The envisaged text of the replacement licence conditions and other licence condition amendments (draft licence conditions) are included in the cover letter accompanying this document. The licence changes apply to suppliers, electricity network operators and gas network operators.

1.14. In addition to commenting on the changes proposed in this document, we welcome comments on any consequential changes that stakeholders believe may arise.

Impact assessment

1.15. A draft impact assessment on the costs and benefits of our final proposals was published alongside our December 2015 consultation. This identified the proposals in our December 2015 consultation as the preferred approach, and we sought further comments or data from stakeholders.

1.16. We have not received further substantive comments or additional data on our draft impact assessment, and our overarching policy intent remains unchanged. We therefore consider that the impact assessment we published alongside our December 2015 consultation remains valid.

Next steps

1.17. We seek your views on the revised proposals and draft licence conditions in this statutory consultation. Please send responses to vulnerability@ofgem.gov.uk by close on 15 July 2016. Subject to reviewing responses to this consultation, we envisage publishing licence modification decisions in summer 2016 and propose that licence changes would take effect no less than 56 days after the publication of the decision.

2. Eligibility and customer identification

Chapter Summary: In December 2015, we consulted on proposals for enhancing the eligibility criteria for the PSR services and proposals for improved customer identification, along with associated draft licence condition changes. In this chapter we summarise stakeholder responses and outline our statutory consultation proposals.

Current arrangements and issues

2.1. Under existing arrangements, only specific groups of customers with particular characteristics are eligible for PSR services. However, most eligible customers are not on a register.⁹ There are also customers who do not meet the current eligibility criteria but would benefit from receiving additional services. In addition, we are concerned that companies do not currently do enough to identify vulnerability during interactions with their customers.

December 2015 consultation proposals

Customer eligibility

2.2. We proposed that companies should make a broad assessment of customer needs when determining eligibility for relevant services. We proposed that suppliers consider a range of personal characteristics in addition to the particular situation that the customer may be in at the time. We proposed retaining the “core” eligibility groups in existing licence conditions for network operators, with the addition of the category “families with children aged five and under”.

Customer identification

2.3. We proposed changing current supply licence conditions by shifting the responsibility onto suppliers to identify customers in vulnerable situations, so they can offer services appropriate to their needs. In our draft licence conditions, we proposed that suppliers should take “all reasonable steps” to identify such customers that may be eligible for the PSR and other non-financial services. The draft licences for network operators proposed that they must set up practices and procedures to identify such customers.

⁹ June 2013, Ipsos MORI UK Limited and Ofgem, <https://www.ofgem.gov.uk/ofgem-publications/75553/quant-psr-research-mori-consumer-vulnerability-strategy-june-2013.pdf>.

Summary of consultation responses

2.4. Respondents broadly supported the overarching policy intent behind our proposals in this area.

Customer eligibility

2.5. A consumer group and two suppliers asked for an explanation of who may be considered in a “vulnerable situation”. Furthermore, a trade body and one supplier raised concerns that if the definition is too broad, it may increase the number of eligible customers to the point that PSR services become too diluted.

2.6. Three suppliers wanted clarification on whether the term “Domestic Customer” in the supply licence conditions included other members of the household who may be considered to be in a vulnerable situation, for example, if they depend on uninterrupted electricity supply.

2.7. Network companies were broadly supportive of our proposals under eligibility.

Customer identification

2.8. Four suppliers and a trade body were concerned that the draft licence requirement for suppliers to take “all reasonable steps” to identify customers in vulnerable situations may be too broad, leaving it open to subjective interpretation. In this context, two suppliers questioned how Ofgem intended to approach monitoring and potential enforcement action, given the implied flexibility for suppliers to take different routes to identify customers in vulnerable situations.

2.9. Network companies were broadly supportive of our proposals under identification.

Proposals for this statutory consultation

Customer eligibility

2.10. In line with our December 2015 consultation proposals, we propose making changes to the supply licence conditions to ensure that suppliers account for a range of personal characteristics¹⁰ and the particular situation the customer may be in when their needs are assessed.

¹⁰ “Personal Characteristics” is defined in the revised draft supply licence conditions.

2.11. We propose making changes to network operator licence conditions to ensure they are offering services to customers in the revised core groups and considering whether the customer is in a vulnerable situation.

Being in a vulnerable situation

2.12. Vulnerability can be caused by the situation that the customer finds themselves in, not just their personal characteristics. There are a wide range of circumstances that can put customers in vulnerable situations and companies should take into account the transient nature of vulnerability as individual consumers' circumstances change.

2.13. For example, a neighbour might inform a supplier's meter reading agent that a Domestic Customer in the same street using a prepayment meter has a broken leg and cannot access their meter to top-up. In this situation, the supplier may need to make appropriate temporary arrangements to allow the customer to continue accessing supply safely, thereby catering for their temporary vulnerability.

2.14. In this particular scenario the supplier could, for example, liaise with the customer to identify a nominated person who can top-up the meter on their behalf. Alternatively, they may wish to switch the meter to credit mode if it is a smart meter; replace the meter with a credit meter if it is operating in dumb mode; or take some other action to cater for their customer's temporary vulnerability.

2.15. We anticipate company PSRs becoming more targeted lists of customers with specific needs as a result of this approach. We acknowledge that companies will have different ways of identifying eligible customers based on their particular business models and customer needs.

Domestic customer and other members of the household

2.16. We recognise that some suppliers already offer PSR services to members of the household other than the Domestic Customer. We acknowledge that the draft supply licence conditions published alongside this document focus on offering services to the Domestic Customer in line with our long-standing policy intent. But this does not restrict suppliers from offering services to other members of the household if they wish to and we would encourage this where it is appropriate.

Personal Characteristics

2.17. We propose clarifying the definition of "Personal Characteristics" in the supply licence. In line with our long-standing policy intent, we propose extending the current drafting to recognise that along with the characteristics identified in the December 2015 draft definition, other characteristics identified by the licensee may be relevant for the provision of PSR services.

Customer identification

2.18. In line with our December 2015 consultation proposals, we intend changing existing licence conditions for suppliers and network operators to make it the companies' responsibility to identify customers in vulnerable situations during the course of their interactions with them, and to offer them services to address their needs.

Suppliers to take "all reasonable steps" to identify vulnerability

2.19. We have retained our proposal that suppliers should take "all reasonable steps" to identify customers who are eligible to receive PSR services during the course of their interactions with them.

2.20. What constitutes "all reasonable steps" to identify vulnerability in this context will differ depending on the individual circumstances of the case.

2.21. For example, if a supplier's call centre representative learns that a customer is chronically sick during a phone conversation originally about a billing query, we would expect the representative to identify the customer as being likely to be eligible for PSR services and conduct further enquiries. Conversely, we do not expect companies to design telephone call scripts so that each and every customer call begins with a lengthy list of questions designed to identify potential vulnerability irrespective of the reason for the call.

3. Priority services

Chapter Summary: In December 2015, we consulted on proposals to reshape the PSR services offered by companies, with associated draft licence condition changes. In this chapter we summarise stakeholders' responses and outline our proposals for this statutory consultation.

Current arrangements and issues

3.1. Companies are required to offer specific non-financial services free of charge to customers that are registered on their PSR. These services are intended to offer assistance to customers with additional needs relating to safety, access and communication. However, current PSR services listed in licence conditions are prescriptive and do not allow room for innovation and flexibility to meet the needs of customers in vulnerable situations.

December 2015 consultation proposals

3.2. We proposed that suppliers offer free non-financial services focused on delivering positive consumer outcomes outlined in their licence conditions. We proposed that network operators continue offering specific prescribed services.

3.3. In addition, we proposed that suppliers offer services outside of those listed in the licence conditions to customers where need is identified and where it is reasonably practicable to do so. Electricity network operators are empowered to offer additional services under their existing licence.

Summary of consultation responses

3.4. We received broad support for the intent behind our proposals.

3.5. Two suppliers queried if suppliers were expected to consider foreign languages when formulating "communications with the Domestic Customer in an accessible format".

3.6. Four suppliers queried why a section in the existing supply licence condition negating the need for the supplier to offer a meter reading service where another person in the household is able to read the meter had been removed.

3.7. One trade body and a gas network operator suggested that the draft gas network operator licence conditions should be extended to enable the offering of additional services where need was identified by the operator and where it was reasonably practicable to offer such services. A consumer group also supported the provision of additional services by gas network operators.

Proposals for this statutory consultation

3.8. We propose that suppliers are required to offer services to customers in vulnerable situations based on delivering positive consumer outcomes, as outlined in the draft supply licence conditions. We propose that network operators offer the specific services specified in their licence conditions. We have not made any material changes to the outcomes we propose suppliers achieve, or services we propose network operators provide from those identified in our December 2015 consultation.

Suppliers providing communications in foreign languages

3.9. Suppliers may wish to provide communications to their PSR customers in foreign languages. However, we do not view the proposed requirement to provide communications in an accessible format as requiring this.

3.10. We are not proposing to regulate for scenarios where English is not the customer's primary language, but we would expect a supplier to consider what alternative arrangements may assist the customer in this situation. This could include, for example, checking if a nominated person can communicate with the supplier on behalf of the customer or signposting the customer to appropriate advice and support.

3.11. Network companies' licences provide for situations where a customer may not speak English and the companies should accommodate this accordingly.

Meter reading by another person in the household

3.12. We recognise that in certain situations other members of the household may be able to read the meter on behalf of the customer. We have reinserted this provision into the supply licence conditions in recognition of this.

Providing additional services

3.13. Where need is identified and it is reasonably practicable to do so, we propose requiring that suppliers offer additional services. Condition 10 of the electricity distribution licence has empowered electricity network operators to provide additional services exceeding those required under this condition, and to those parties they identify as requiring these services, outside of defined eligibility criteria. In line with consultation responses, we see no reason why existing provisions enabling electricity network operators to provide additional services, should not be matched by provisions for gas network operators. We propose to include these same provisions in the gas transporter licences condition 17 and condition D13.

4. Data recording and sharing

Chapter Summary: In December 2015, we consulted on proposals for companies to record and share vulnerability data with associated draft licence condition changes. In this chapter, we summarise stakeholder responses and outline our proposals for this statutory consultation.

Current arrangements and issues

4.1. All companies except gas network operators are currently required to record and share data about their customers in vulnerable situations with other companies using individual vulnerability categories. Electricity suppliers and electricity network operators record and share relevant customer vulnerability data with each other using “needs codes” through industry data flows or manually. Similarly, gas suppliers share data about their customers in vulnerable situations with gas network operators using industry data flows. Information is not currently shared between suppliers when a customer switches.

4.2. The industry “needs codes” and associated vulnerability categories used to record and share data, require updating to ensure they are consistent across the industry. In addition, the industry mechanisms used to share data between companies are inconsistent and require reviewing to ensure more efficient customer service. Gas network operators should be recording relevant information about their customers in vulnerable situations and sharing this data with gas suppliers where appropriate.

4.3. There is also a need to review relevant processes for supplier-to-supplier data sharing, taking into consideration other developing work streams such as the faster more reliable Switching Programme.¹¹

December 2015 consultation proposals

4.4. We proposed that all companies record relevant customer vulnerability data and share this information consistently with each other. We proposed that suppliers share relevant information they identify about their customers’ vulnerability needs with electricity network operators and gas network operators and vice versa.

4.5. We said that data should be recorded and shared using a revised set of “needs codes” and associated vulnerability categories. The draft “needs codes” and vulnerability categories developed by industry were published in our December 2015

¹¹ Ofgem’s Switching Programme aims to radically overhaul the change of supplier process for gas and electricity customers and deliver faster more reliable switching.

consultation for reference. We also said that these categories and records of customers should be maintained and reviewed periodically.

4.6. We envisaged changes to the electricity processes for recording and sharing data taking effect from June 2016 with changes to gas processes taking effect from June 2017. Implementation was staggered to take account of the delayed delivery of gas industry central infrastructure system changes that impact on data recording and exchange.

4.7. We proposed that suppliers develop appropriate communication approaches to transfer vulnerability data from an old to a new supplier when a customer switches, noting that we will consider including supplier-to-supplier data sharing as part of the faster more reliable Switching Programme.

4.8. We also noted that longer-term approaches to data sharing, for example through a single register incorporating other utilities, would be considered alongside similar ongoing projects.

Summary of consultation responses

4.9. In principle, all respondents agreed that improving arrangements for recording and sharing vulnerability data between suppliers and network operators is in the best interests of customers in vulnerable situations.

4.10. Seven suppliers, four electricity network operators and a trade body advocated revised electricity and gas data sharing arrangements being implemented at the same time. They indicated that June 2017 was a more realistic implementation point than June 2016 as originally planned for electricity data sharing.

4.11. They highlighted a range of factors delaying the implementation of electricity changes. These factors included delays with central industry infrastructure programmes linked to data recording and exchange; delays with the development of privacy impact assessments; and resourcing constraints.

4.12. Three suppliers wanted clarity on the meaning of “Minimum Details” and “Relevant Industry Mechanisms” in the supply licence conditions.

4.13. Four suppliers and a trade body questioned what was entailed with obtaining a Domestic Customer’s “informed consent” for data sharing in practice. They also wanted us to define what is meant by informed consent in this context. They were concerned that the requirement to acquire informed consent would lead to a poor customer experience and that some customers would be unwilling to provide consent.

4.14. The Information Commissioner’s Office and one supplier noted the new EU General Data Protection Regulation and its possible effects on data sharing.

4.15. There was broad support across consumer groups and companies for a central system to record and enable data sharing across utilities in the longer-term.

Proposals for this statutory consultation

4.16. We propose that suppliers record appropriate information about their customers in vulnerable situations consistently and share this information with other companies in a two way process, using revised “needs codes” and associated vulnerability categories. These categories and records of customers should be maintained and reviewed periodically.

4.17. Network operators for gas and electricity, as indicated in licence drafting, are required to have processes and procedures in place to identify relevant customers eligible for these services. We expect these companies to share this information with other companies, also using the same approach as indicated above.

4.18. All companies should develop agreed ways to share data through industry codes. For electricity network operators,¹² and electricity suppliers, these arrangements will be set out in the Master Registration Agreement. For gas network operators,¹³ and gas suppliers, these will be in the Supply Point Administration Agreement and the Uniform Network Code.

Implementation timetable

4.19. Industry now expects changes to both the electricity and gas recording and sharing processes to take effect from June 2017. This allows companies an additional 12 months to make the changes required for sharing electricity customer data. By talking to industry, we understand that this is deliverable but also depends on *Project Nexus* systems being delivered on time.¹⁴

4.20. We are concerned that the future of vulnerability data sharing via the PSR hinges on the timely delivery of broader industry infrastructure programmes. We are also concerned at the range of other issues, largely within companies’ control, that have led to them setting back their plans.

4.21. Resetting the delivery timetable for revised PSR data sharing arrangements (now from June 2017 for both gas and electricity) provides industry with significant additional time. This delay will allow companies to make contingency plans if related change programmes are delayed further.

Minimum Details

¹² This includes electricity suppliers and electricity network operators.

¹³ This includes gas suppliers and gas network operators.

¹⁴ Project Nexus incorporates the upgrade of the gas industry’s central *UK Link* IT systems.

4.22. We have defined the “Minimum Details” that suppliers will need to record and share. These details include the customer’s name and details of any relevant Personal Characteristics and/or vulnerable situation.

4.23. Our proposed definition also allows us, following consultation, to designate such other details as are relevant to the PSR. The intended effect of this clause is that, if it becomes apparent that insufficient information is being recorded and shared by companies, we can intervene to ensure appropriate information is recorded and shared.

Relevant Industry Mechanisms

4.24. We expect industry to develop the mechanisms to enable effective vulnerability data recording and sharing. The draft supply licence conditions published alongside the December 2015 consultation noted that The Authority (Ofgem) would need to designate the Relevant Industry Mechanisms.

4.25. In the revised draft supply licence conditions published alongside this document, we have retained this option, but defined “Relevant Industry Mechanisms” to reflect our long-standing policy intent that industry will develop the mechanisms and embed them in the relevant industry codes independently. The effect of the draft supply licence conditions is that, following due process, Ofgem has the power to designate the mechanism(s) (including the scope of data which needs to be recorded and shared – see commentary on “Minimum Details” above) where this is considered to be appropriate. For example this would be appropriate where industry failed to embed suitable mechanisms in relevant industry codes within an appropriate timeframe.

Changes in data protection legislation

4.26. We have amended the draft supplier and network operator licence conditions so they are future-proof to changes in data protection and privacy laws. The revised draft licence conditions no longer expressly refer to the need for companies to acquire informed consent from consumers for sharing their data and instead refer to the broader requirement for companies to comply with data protection and privacy laws. The intended effect of this change is that while companies would still normally need to obtain consent according to the requisite standard in data protection and privacy laws, they may be able to act without consent in so far as any relevant exceptions are adopted in the UK.

Data sharing when switching supplier

4.27. Suppliers should develop appropriate approaches to enable the transfer of vulnerability data from an old to a new supplier where a customer switches. We

understand that initial discussions have been held at the Safeguarding Customers Working Group¹⁵ (SCWG) to consider this issue. We will consider whether supplier-to-supplier vulnerability data sharing should be undertaken bilaterally between suppliers, via a form of intermediary or an alternative system.

Data sharing across utility providers

4.28. In line with consumer groups and companies, we support the principle behind a centralised mechanism being used to share vulnerability data across utilities.

4.29. In their Forward Work Plan,¹⁶ Citizens Advice committed to building and testing a tool to help consumers sign up to priority services registers/special assistance registers across the energy and water sectors this year. We support this initiative. We are also working with the UK Regulators Network to establish the potential for a data sharing pilot involving energy and water companies. These and other similar initiatives should help pave the way for joined-up, cross-sector vulnerability data sharing in the longer-term.

¹⁵ The SCWG is an industry-led group developing a set of “needs codes” and vulnerability categories to allow for consistent PSR data recording and sharing. The group is considering privacy implications as part of this work.

¹⁶ March 2016, Citizens Advice and Citizens Advice Scotland Final work plan 2016/17 <https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/consumer-policy-research/consumer-surveys-consultation-responses/citizens-advice-consumer-champion/>.

5. Awareness of priority services

Chapter Summary: In December 2015, we consulted on proposals for improving awareness and take-up of priority services with associated draft licence condition changes. In this chapter we summarise stakeholder responses and outline our proposals for this statutory consultation.

Current arrangements and issues

5.1. Existing licence conditions require companies to prepare statements on their obligations under the PSR. They are required to publish and tell their customers about the statement and where to find it at least once a year. However, awareness of the PSR and its services remains low.¹⁷

December 2015 consultation proposals

5.2. We proposed encouraging companies to use the term “priority services” to ensure consistency when promoting information about the PSR and the services available.

5.3. We proposed that companies should develop more innovative ways to increase awareness and promote take-up of PSR services. Alongside this, we proposed that Citizens Advice and other third party advisors develop customer advice and information materials on the PSR, which they can use to advise customers in vulnerable situations.

5.4. We also proposed retaining the existing requirements on network operators to prepare statements on their obligations under the PSR licence conditions and inform their customers about these statements.

Summary of consultation responses

5.5. We received broad support for our proposals to improve awareness and take-up of priority services.

5.6. Generally, all respondents agreed that it was appropriate for the term “priority services” to be used to promote PSR services. Two suppliers raised concerns about how this would work in practice as individual companies may tailor services to suit their customers’ needs, which may confuse customers if promoted through a single brand.

¹⁷ June 2013, Ipsos MORI UK Limited and Ofgem, <https://www.ofgem.gov.uk/ofgem-publications/75553/quant-psr-research-mori-consumer-vulnerability-strategy-june-2013.pdf>.

5.7. Respondents had mixed views on who should take responsibility for producing awareness-raising materials. Four consumer groups, ten suppliers, three electricity network operators, two gas network operators and one trade body agreed there should be some material developed by and/or between suppliers, network operators, charities/third party organisations and Ofgem for third party advisors.

Proposals for this statutory consultation

Single brand

5.8. Whilst not a requirement of the draft licence conditions, we encourage companies to use the term “priority services” to ensure consistency when promoting information about the PSR and the services available. This will help with better consumer awareness. We acknowledge that there may be differences in the services offered by companies. However, we consider that appropriate messaging by companies when promoting PSR services under the single brand will help avoid confusion among consumers.

Promotion

5.9. Companies should look to develop cost efficient innovative ways to increase awareness and promote take-up of PSR services. We are aware that some companies adopt various positive approaches already, including collaborating with local authorities and charities to reach consumers more effectively.

5.10. We propose enshrining our long-standing policy intent for suppliers to promote the PSR to their customers within the supply licence condition. We propose this takes the form of an obligation to take all reasonable steps to promote the PSR.

5.11. We recognise that “promotion” in this context could cover a broad range of options that individual suppliers should select from in order to best target awareness-raising activities to their customer base. For example, a supplier could choose to promote their PSR services through suitable website literature alongside joint local campaigns with third parties.

5.12. However, we also recognise that “promotion” in its broadest sense could include extremely costly activities. We recognise the need for suppliers to use resources efficiently and cost-effectively to maximise benefit while minimising cost that will ultimately be passed on to their customers.

Awareness materials

5.13. We propose that consumer groups and other third party advisors should lead on developing customer advice and information materials on the PSR provisions, which they can use to advise customers in vulnerable situations. We consider that companies should also have a role in developing these materials; companies could

look to test these materials as part of their wider consumer research programmes to measure effectiveness. We anticipate work on this beginning in autumn 2016.

Network operator statements

5.14. We propose that network operators continue to prepare statements setting out their obligations under the PSR licence conditions and inform their domestic customers about these statements at least once each year.

6. Compliance and performance monitoring

Chapter Summary: In December 2015, we consulted on proposals for improving compliance and performance monitoring of companies. In this chapter we summarise stakeholder responses and outline our proposals for this statutory consultation.

Current arrangements and issues

6.1. Suppliers are required to provide us with information on their PSR numbers on an annual basis through the Social Obligations Reporting (SOR) mechanisms. However, this does not provide us with information about the quality of services that customers are receiving from suppliers.

6.2. Electricity network operators also report to Ofgem annually on their PSR numbers. In addition, there is scope in the Stakeholder Engagement and Consumer Vulnerability Incentive¹⁸ for electricity network operators and the Discretionary Reward Scheme¹⁹ for gas network operators to incentivise network operators to adopt good practices in how they identify record and share information about customers in vulnerable situations.

December 2015 consultation proposals

6.3. For suppliers, we proposed retaining the existing reporting requirements.²⁰ We also proposed that suppliers should include details on compliance with the licence conditions underpinning the PSR in their Treating Customers Fairly Statement.²¹ In addition, we said we would consider a broader package of measures to assess supplier performance and quality of service delivered, including the use of a challenge panel focused on vulnerability issues.

6.4. We proposed retaining the existing reporting requirements for electricity network operators²² covering the provision of priority services, making revisions where appropriate. For DNOs and GDNs we also proposed using the existing

¹⁸ The Stakeholder Engagement and Consumer Vulnerability Incentive drives network companies to engage with stakeholders and address consumer vulnerability issues.

¹⁹ The Discretionary Reward Scheme aims to reward the performance of Gas Distribution Network (GDN) companies which best serve the interest of customers through initiatives over and above what GDNs have been funded for within the RIIO-GD1 price control. The scheme assesses companies on their initiatives across three categories: environment, social and carbon monoxide safety.

²⁰ Condition 32.2 of the Electricity Supply Standard Licence Conditions and the Gas Supplier Standard Licence Conditions.

²¹ Condition 25C.7 of the Electricity Supply Standard Licence Conditions and the Gas Supplier Standard Licence Conditions.

²² Condition 11 of electricity distribution standard licence conditions (Reporting on performance).

incentive mechanisms in the Stakeholder Engagement and Consumer Vulnerability Incentive and the Discretionary Reward Scheme. We said we would monitor these network operators' performance through these incentives.

Summary of consultation responses

6.5. We received broad support for our proposals to use existing mechanisms, revised where appropriate, for compliance and performance monitoring purposes.

6.6. Three suppliers and a trade body agreed in principle with our proposal to use a broader package of measures to monitor supplier performance. Four suppliers requested more clarification on how we will monitor compliance with the licence conditions, what kind of additional reporting will be required, including any revisions to the Social Obligations Reporting.

6.7. Four suppliers and a trade body disagreed with including details of priority services in the Treating Customers Fairly (TCF) statement. They argued that the TCF is aimed at all consumers, not just those who are or may be in a vulnerable situation, so is not sufficiently targeted.

6.8. Six electricity network operators, four gas network operators and a trade body agreed with the proposal to use the existing network operator incentive and reward schemes.

Proposals for this statutory consultation

Developing supplier performance monitoring

6.9. We will consider a range of new tools to assess suppliers' performance and the PSR will be considered as we develop our new operational model as part of our work on the future of retail market regulation.²³ We acknowledge concerns that any approach taken to assess supplier performance will need to account for potential differences in supplier activities.

Treating Customers Fairly statement

6.10. Further to consultation responses, we propose not requiring suppliers to include details on compliance with the licence conditions underpinning the PSR in their Treating Customers Fairly statement. We note that the Treating Customers Fairly statement applies to all customers and that it may not be a sufficiently targeted vehicle for the intended purpose. We will leave it with individual suppliers to

²³ This is our work to explore how best to rely more on principles in the way we regulate the retail energy market. For more information, please see our website: <https://www.ofgem.gov.uk/gas/retail-market/market-review-and-reform/future-retail-market-regulation>.

decide whether it is an appropriate way to communicate information about their compliance with their customers.

Network operator monitoring

6.11. We propose monitoring DNOs' performance in identifying, recording and sharing vulnerability data through the Stakeholder Engagement and Consumer Vulnerability Incentive. Network operators should refer to the Stakeholder Engagement and Consumer Vulnerability Incentive Guidance for detail on the criteria they need to meet to ensure compliance.

6.12. For GDNs, we propose taking the same approach through the Discretionary Reward Scheme. Rewards will be given to companies who successfully meet the criteria set out in the next Discretionary Reward Scheme guidance.

6.13. We expect IDNOs, IGTs and other relevant licence holders to also provide these services in accordance with their obligations under condition 17 and condition 10 of their respective licences. We expect these companies to work with the industry in this area to ensure the interest of consumers in vulnerable circumstances are preserved regardless of whether such consumers are on independent's networks or other networks.

Appendices

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Appendix 1 – December 2015 consultation: questions and respondents

1.1. We consulted on our proposals to review the provisions of the Priority Services Register in December 2015. Here is a list of the consultation questions we posed and a list of respondents.

Question 1: Do you agree with our final proposals for enhancing eligibility and customer identification and the associated proposed licence conditions?

Question 2: Do you agree with our final proposals for amending the PSR services and the associated proposed licence conditions?

Question 3: Do you agree with our final proposals for recording and sharing information about customers in vulnerable situations and the associated proposed licence conditions?

Question 4: Do you agree with our final proposals for raising awareness of the priority services, including any specific suggestions for energy companies to improve awareness?

Question 5: Do you agree with our final proposals for the approach to monitoring energy company performance in this area?

1.2. In conjunction with our final proposals we also consulted on modifying the following licence conditions:

- Standard Condition 26 of the Gas and Electricity Supply licences
- Standard Condition 17/ Standard Special Condition D13 of the Gas Transporter Licence
- Standard Condition 10 of the Electricity Distribution Licence

1.3. Below is a list of respondents:

Age UK
Berwick-upon-Tweed Community Development Trust Limited
British Gas
Citizens Advice
Community Housing Cymru Group / Grŵp Cartrefi Cymunedol Cymru
Economy Energy
Ecotricity
EDF Energy
Energy Networks Association (ENA)
Energy UK
Electricity North West Limited
E.ON
Information Commissioner
National Energy Action
National Grid Gas Distribution (NGGD)
Northern Gas Networks



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Northern Powergrid
RWE npower
The Ombudsman Service Ltd (TOSL)
OVO Energy
Scottish Power
SGN
SP Energy Networks
SSE plc
Scottish and Southern Energy Power Distribution (SSEPD)
StepChange Debt Charity
The Children's Society
UK Power Networks
Utilita Energy
Western Power Distribution
Wales & West Utilities Limited (WWU)

Appendix 2 – Summary of revisions to the draft supply licence conditions published alongside the December 2015 consultation

We are proposing to replace supply licence condition 26 with an entirely new licence condition. With this in mind and to aid clarity, we summarise here the key changes we have made to the draft supply licence conditions compared to those published alongside our December 2015 consultation. We have also included revised draft supply licence conditions within the cover letter published alongside this document.

SLC 26.1 b)

We propose adding a condition that will require suppliers to promote the existence of the PSR and its services as explained in Chapter 5 Awareness of priority services.

SLC 26.1 c)

We propose adding text to this condition to provide extra clarity to suppliers on the factors they need to consider when considering identifying vulnerability.

SLC 26.2, 26.3, 26.6

We propose amending the text in these conditions from the previous drafting to reflect broader developments in data protection legislation as explained in Chapter 4 Data recording and sharing.

SLC 26.5 a)

We propose removing text in this condition to remove duplication with the drafting in Gas Transporter Standard Condition 17; Standard Special Condition D13; and Electricity distribution standard condition 10, highlighted by respondents to our December 2015 consultation.

SLC 26.5 c)

We propose inserting text present in the existing supply licence condition, but omitted from previous drafting into this condition covering circumstances when another person in the household is able to read the meter on behalf of the Domestic Customer.

SLC 26.6

We propose removing this condition and leaving it open to suppliers to use channels appropriate to their customer base to communicate their compliance with their PSR obligations as explained in Chapter 6 Compliance and performance monitoring.

“Minimum Details”

We propose defining the term “Minimum Details” as explained in Chapter 4 Data recording and sharing.

“Personal Characteristics”

We propose defining the term “Personal Characteristics” as explained in Chapter 2 Eligibility and customer identification.



“Relevant Industry Mechanisms”

We propose defining the term “Relevant Industry Mechanisms” as explained in Chapter 4 Data recording and sharing.

Appendix 3 – Summary of revisions to the draft electricity network operator licence conditions published alongside the December 2015 consultation

We are proposing to amend Electricity Distribution Standard License Condition 10. With this in mind and to aid clarity, we summarise here the key changes we have made to the draft licence conditions compared to those published alongside our December 2015 consultation.

Electricity distribution standard condition 10 10.8.

We propose including text in these conditions to reflect broader developments in data protection legislation as explained in Chapter 4 Data recording and sharing.

Appendix 4 – Summary of revisions to the draft gas network operator licence conditions published alongside the December 2015 consultation

We are proposing to amend Gas Transporter Standard Condition 17 and Standard Special Condition D13.

In December 2015, we provided initial draft licence changes for comment under Condition 17 and Condition D13. We have summarised here the key changes we have made to the draft licence conditions compared to those published alongside our December 2015 consultation.

Licence reference from December 2015	Change from December 2015	Explanation
eligibility for services, paragraph 1	aimed at identifying <u>to identify</u>	Change made to make wording consistent across DNO and GDN licences
eligibility for services, paragraph 1	for assistance under this condition to become PSR customers	Removal of PSR reference. This is to be consistent with our approach for the network operators, as per paragraphs 6.11-6.13 above
eligibility for services, paragraph 1	PSR-specific priority services.	Same as comment above
Eligibility for services, paragraph 2(a)(ii)	because of their personal characteristics or otherwise	This has been removed as it was largely repetition. DNO and GDN licences set out in detail, the specific eligibility criteria.
Eligibility for services, paragraph 2(a)(ii)	<u>access</u> , communication	Access was added for completeness
Eligibility for services, paragraph 2(b)(i)	personally asked the licensee to approach the licensee to register their details as an eligible customer under this condition add their name to the Priority Services Register and	See comments above regarding removal of mention of PSR in the GDN and IGT licences
Eligibility for services, paragraph 2(b)(ii)	acting on their behalf ask for their name to be added to it registered	Editorial change

<p>Services for vulnerable domestic customers, first paragraph</p>	<p>If a domestic customer who is of pensionable age, disabled, or chronically sick asks it to do so, the The licensee must offer, free of charge, <u>to agree a password with that customer who is eligible for assistance (or their representative),</u></p>	<p>Given the detailed eligibility criteria in the opening paragraphs of this condition, this explanation of eligible customer was removed.</p> <p>'representative' was added to reflect the possibility in Eligibility Criteria of there being someone who can act on behalf of the eligible customer to coordinate the provision of these services. This person should be mentioned throughout, where appropriate, to reflect this.</p>
<p>Services for vulnerable domestic customers, new paragraph to include data sharing and informed consent</p>	<p>The licensee must, upon becoming aware of a domestic customer who may be eligible to become a PSR customer:</p> <ul style="list-style-type: none"> (a) seek the informed consent of the customer to share information with the relevant supplier and relevant distributor, and (b) if (and only if), it has the informed consent of the PSR customer, give the relevant supplier and/or relevant Distributor such details of that customer, in such intervals as are relevant to the performance of that supplier or distributor's obligations under its licence. 	<p>This paragraph was originally included in the December document. It has been removed and updated. We propose including text in these conditions to reflect broader developments in data protection legislation as explained in Chapter 4 Data recording and sharing.</p>
<p>Services for vulnerable</p>	<p>(c) <u>For the purposes of</u></p>	<p>We propose including text in these conditions to reflect</p>

<p>domestic customers, new paragraph on data protection</p>	<p><u>complying with its obligations under this condition (including in respect of obtaining, recording, using and sharing information), the licensee must comply with any laws relating to data protection and/or privacy.</u></p>	<p>broader developments in data protection legislation as explained in Chapter 4 Data recording and sharing.</p>
<p>New section "other domestic customers and services"</p>	<p><u>Nothing in this condition prevents the licensee from:</u></p> <p>(a) <u>including domestic customers additional to those specified [under paragraph 2] ; or</u></p> <p>(b) <u>providing services to domestic customers that exceed those required under this condition.</u></p>	<p>This has been included as per respondent's comments. This aligns gas network company licences with electricity network company licences. It allows gas network companies to provide additional services to those in this condition and to provide services as per this condition, to domestic customer outside the "core groups". This is explained further in Chapter three.</p>
<p>Numbering throughout</p>		<p>This has changed to reflect inserted new paragraphs. referencing between paragraphs has been updated accordingly</p>

Appendix 5 – Statutory consultation question and response

We would like to hear your views on any of the issues raised in this document. In particular, we welcome views on the draft licence conditions published alongside this document. Please respond by close on **Friday 15 July 2016** and send responses to:

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Ofgem, 9 Millbank, London SW1P 3GE
0207 901 7368
vulnerability@ofgem.gov.uk

Unless marked confidential, all responses will be published in Ofgem’s library and on our website www.ofgem.gov.uk. You may ask for your response to be kept confidential which we will respect subject to any obligations to disclose information, for example, under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004. If you would like your response to be kept confidential, please clearly mark your document(s) accordingly.

Appendix 6 - Feedback Questionnaire

We think consultation is at the heart of good policy development. We are keen to consider any comments or complaints about how this consultation has been conducted. We are keen to get your answers to these questions:

- 1.** Do you have any comments about the overall process adopted for this consultation?
- 2.** Do you have any comments about the overall tone and content of the document?
- 3.** Was the document easy to read and understand? Could it have been better written?
- 4.** Did the document's conclusions provide a balanced view?
- 5.** Did the report make reasoned recommendations for improvement?
- 6.** Please add any further comments.

Please send any comments to Andrew MacFaul (andrew.macfaul@ofgem.gov.uk) and Jonathan Blagrove (vulnerability@ofgem.gov.uk).