



Making a positive difference  
for energy consumers

All stakeholders

Email: [RetailPriceRegulation@ofgem.gov.uk](mailto:RetailPriceRegulation@ofgem.gov.uk)

Date: 3 May 2018

Dear stakeholders,

### **Statutory consultation on price protection data matching**

The energy market is not working for all consumers and those who have not switched tariff are losing out. Government is progressing a Bill through Parliament requiring Ofgem to implement a tariff cap for all customers on Standard Variable Tariffs (SVTs) and other default tariffs ('the default tariff cap'). We are in the process of developing this cap, so that we can implement it as quickly as possible once the legislation has been passed. Our ambition is to introduce further retail price protection by the end of this year. In the event that Royal Assent for the default tariff cap bill is delayed, we are continuing work on an alternative targeted form for vulnerable customers that can be introduced without the new duties and powers contained in the bill.

To support this – and based on responses to our December consultation<sup>1</sup>, stakeholder workshops and bi-laterals with suppliers and other third parties - we have concluded that it is feasible and proportionate for both Warm Home Discount obligated suppliers and also other medium-sized suppliers (those with more than 50,000 customers and who will have been active in the market for at least three years by winter 2018/19) to undertake data matching, if required for a form of price protection. This statutory consultation sets out the preparatory steps for these suppliers to design and test the data matching arrangements ahead of any future decisions on price protection.

To ensure that all eligible consumers can benefit from extended price protection, we are also proposing that smaller suppliers manually process requests from their customers claiming eligibility for extended price protection at the same time as large and medium-sized suppliers are identifying eligible customers using the data matching exercise.

We note that we may conclude that price protection for the most vulnerable consumers is required after the default tariff cap ends. The preparatory steps we propose suppliers take now will enable a better understanding of any data matching process for any future vulnerable safeguard tariff. More broadly, the lessons learnt from this exercise will be valuable for future similar pieces of work aimed at protecting vulnerable consumers.

### **Amendments to the Digital Economy Act**

---

<sup>1</sup> <https://www.ofgem.gov.uk/publications-and-updates/providing-financial-protection-more-vulnerable-consumers>

The Digital Economy Act 2017 introduces new information sharing provisions that allow data sharing between specified public authorities and energy suppliers to assist with alleviating fuel poverty. The Government has recently issued a follow-up consultation to amend this legislation to facilitate data matching between DWP and suppliers to identify consumers eligible for an extended vulnerable safeguard tariff.<sup>2</sup> The Government is expecting to publish its response to this consultation shortly and regulations designed to make the necessary changes, which will be subject to Parliamentary approval.

### **Assessing Impacts**

We intend publishing a detailed Impact Assessment (IA) alongside a future statutory consultation that will consult on the tariff methodology for an extended vulnerable safeguard tariff. This IA will include a detailed assessment of impacts of both the scope and level of the extended safeguard tariff.

We recognise the importance of data privacy considerations being fully accounted for within the design of the data matching arrangements that form the core of our proposals. We will work closely with suppliers, DWP and other key stakeholders to develop a detailed Data Privacy Impact Assessment (DPIA) that will underpin the data matching arrangements. This DPIA will be drawn up throughout the preparatory phase and completed in advance of any live data sharing taking place.

### **Draft licence conditions and their intended effect**

In this statutory consultation, we are proposing to introduce licence conditions obligating suppliers who will be required to data match at a later date to take preparatory steps now in preparation for the data matching exercise. The draft licence conditions require suppliers to put in place the operational capability in the form of staffing and IT systems to ensure the required data can be transferred to DWP in a suitable form. The draft licence conditions also require suppliers to take all reasonable steps to enter into an agreement with DWP to data match.

The draft licence conditions also propose obligating smaller suppliers to manually process requests from their customers claiming eligibility for the extended vulnerable safeguard tariff, and to publicise the availability of the tariff to their customers.

As evidenced in Appendix 1, we do not expect these new licence conditions to impose a significant burden on suppliers. Many of the large and medium suppliers already have the required systems and processes in place to effectively conduct data matching as 16 of the 25 suppliers who would be obligated to data match under our proposals have experience of data matching with the WHD scheme as obligated or voluntary suppliers. Smaller suppliers will have significant time to design processes for manually verifying customer eligibility or can deem eligibility if they choose.

Alongside this document, we have published draft modification Notices which include explanatory notes on the intended effect of each part of the draft licence conditions.

### **Next Steps**

Following consideration of consultation responses, we intend deciding whether to proceed with the proposed licence modifications in June 2018. In the event that we decide to proceed with the modifications, suppliers would have at least 56 days before they would be legally required to start complying with the new condition. However, we urge suppliers to begin relevant preparatory work now, including by making contact and collaborating with DWP. We have contacted suppliers separately about doing this.

---

<sup>2</sup> BEIS (2018), [Consultation on data sharing regulations for a safeguard tariff](#)

We will take the decision on whether to proceed with our proposals once we have gained sufficient clarity concerning the granting of Royal Assent to the default tariff cap Bill.

We welcome views on the proposals set out in this statutory consultation and the accompanying draft licence conditions. **Please respond to [RetailPriceRegulation@ofgem.gov.uk](mailto:RetailPriceRegulation@ofgem.gov.uk) by 5pm on 31 May 2018.**

Yours sincerely

**Anna Rossington**  
**Associate Partner, Retail Price Protection**

## Appendix 1

### **Customer eligibility: which customers will be covered under an extended vulnerable safeguard tariff**

#### *December 2017 consultation proposals*

In our December 2017 consultation, we stated that our aim of extending the vulnerable safeguard tariff would be to identify and assist disengaged vulnerable consumers at risk of fuel poverty:

- Who are in a vulnerable situation that is contributing to them (a) being disengaged and on an expensive default deal, and (b) putting them at a high risk of detriment; and,
- Who are fuel poor consumers and are at a high risk of detriment due to being on an expensive default tariff deal.

We identified customers in receipt of certain welfare benefits<sup>3</sup> as the optimum proxy indicator. We set out our evidence base for why consumers receiving these benefits meet our criteria of being disengaged vulnerable consumers at risk of fuel poverty.

#### *Summary of consultation responses<sup>4</sup>*

There was strong support for our proposal to use eligibility for certain welfare benefits as the optimum proxy for identifying disengaged vulnerable consumers. Stakeholders noted that this approach would fit well with the objectives underpinning our proposal to extend the vulnerable safeguard tariff.

Several consumer groups and suppliers suggested that Working and Child Tax Credits should be included in the list of benefits. It was noted that a significant proportion of low and middle-income consumers with children likely to be eligible for tax credits are in fuel poverty. The earnings threshold for tax credits was also cited as a clear indicator of those likely to be financially vulnerable.

#### *Our revised proposals*

In line with our December consultation and having accounted for stakeholder views and evidence, we are retaining our proposal to use entitlement for those welfare benefits previously listed as a proxy for identifying disengaged vulnerable consumers at risk of fuel poverty.

We propose expanding this list to include Working and Child Tax Credits. This will mean that those consumers in work with children and on a low income who have not yet been transferred from the legacy benefits system onto Universal Credit would be covered under the extended vulnerable safeguard tariff.

### **Customer eligibility: which tariffs and meters will be covered under an extended vulnerable safeguard tariff**

#### *December 2017 consultation proposals*

In our December 2017 consultation, we proposed that the extended vulnerable safeguard tariff would apply to consumers on standard variable or default fixed-term tariffs<sup>5</sup> regardless of meter type, using the same approach as for the WHD safeguard tariff.

---

<sup>3</sup> See Appendix B, Ofgem (2017), [Providing financial protection to more vulnerable consumers](#)

<sup>4</sup> Non-confidential responses and a summary of responses from the December 2017 consultation are published on our website [here](#).

<sup>5</sup> These tariffs are also described as 'default deals', ie a fixed term default contract that a customer would roll onto when an existing fixed term contract ends. At present, these default deals are primarily SVTs.

Customers with prepayment meters are already protected by the existing PPM safeguard tariff, and so these customers would not be covered by the extended vulnerable safeguard tariff.

### *Summary of consultation responses*

Respondents were broadly supportive of our proposal to cover consumers on standard variable and default fixed-term tariffs, and were unanimously supportive of an extended vulnerable safeguard tariff applying to all (non-PPM) meter types.

Some suppliers felt that an extended vulnerable safeguard tariff should only apply to consumers who have been on a default tariff for a certain period of time. Others raised concerns with the definition of standard variable and default fixed-term tariffs as they thought they could be used by engaged customers.

### *Our revised proposals*

In line with our December consultation and having accounted for stakeholder views and evidence, we are retaining our proposal for the extended vulnerable safeguard tariff to apply to all customers on standard variable and default fixed-term tariffs, regardless of meter type.

We want to ensure that where vulnerable consumers have not actively chosen their tariff and are therefore disengaged from the market, they receive the protection of an extended vulnerable safeguard tariff. We therefore consider that our definition of default deals is fit for purpose.

## **How eligible customers will be identified**

### *December 2017 consultation proposals*

In our December 2017 consultation, we proposed that suppliers currently obligated under the WHD scheme identify eligible customers via a data matching process.<sup>6</sup> They would match their customer records with DWP's benefit entitlement records using a similar process to the one they already use to identify eligibility for the WHD scheme 'Core Group'.<sup>7</sup>

We stated that ideally, all suppliers would use this approach to identify eligible customers. However, we thought that there could be challenges for smaller suppliers not currently operating a similar data matching system under the WHD to implement the data matching approach in time for an extended vulnerable safeguard tariff to take effect in winter 2018/19. For these suppliers we proposed that they would be required to use other proxies to identify eligible consumers. We proposed options that would rely on these suppliers identifying eligible customers using information they hold that can indicate vulnerability such as being on the Priority Services Register (PSR) or being in debt.

### *Summary of consultation responses*

All respondents strongly agreed that an extended vulnerable safeguard tariff should apply to all suppliers. There was broad support for the data matching solution we proposed, with stakeholders noting its effectiveness and robustness as an approach. There was limited support for the concept of using alternative approaches for smaller suppliers.

---

<sup>6</sup> Obligated WHD suppliers include electricity suppliers who have over 250,000 or more domestic customers, or who are part of a group of electricity or gas supply companies which together have 250,000 or more domestic customers. There were 15 obligated participants in scheme year 7 of the scheme (June 2017 - March 2018).

<sup>7</sup> The 'Core Group' is an element of the WHD scheme intended to support some pensioners (those who receive the Guarantee Credit element of Pension Credit) through a direct annual rebate of £140 to their electricity or gas accounts. More information on the WHD scheme can be found on the [Ofgem](http://www.ofgem.gov.uk) and [government](http://www.gov.uk) websites.

There was broad support for the data matching approach being applied by all or at least a larger number of suppliers than proposed. Respondents noted that having an all-inclusive approach would allow for a consistent treatment of vulnerable consumers, avoid consumer confusion, and reduce any competitive distortions. Some suppliers stated the operational requirements and costs of implementing data matching would in fact not be significant or unduly onerous for smaller suppliers.

Other respondents proposed options to ease small suppliers into new data matching arrangements. Proposals included providing an implementation delay to smaller suppliers<sup>8</sup>; rebilling customers that are later identified as vulnerable once data matching is in place for all; excluding suppliers who have been operating for less than two years; or only obligating suppliers with over 50,000 customers.

The majority of respondents did not support the concept of smaller suppliers using an alternative approach to data matching. Specific concerns with the use of the PSR as a proxy for identifying eligible consumers were raised. These included the perceived unsuitability of the proxy given the PSR's purpose of identifying those in need of non-financial rather than financial assistance, and the risk of setting a perverse incentive on suppliers not to register customers on their PSR.

#### *Our revised proposals*

In line with our December consultation and having accounted for stakeholder views and evidence, we are retaining our proposal that the extended vulnerable safeguard tariff should apply to all suppliers. We have updated our proposals to expand the data matching approach to a broader group of suppliers, with the remaining smallest or least mature suppliers using the same eligibility criteria but with a manual mechanism for identifying eligible customers. We believe that this approach will maximise effectiveness and consistency while being proportionate.

To increase the number of customers benefitting from the data matching process while maintaining a proportionate approach, we propose extending data matching to suppliers with 50,000 consumers or more or who have been active in the supply market for at least three years as of 31<sup>st</sup> December 2018.<sup>9</sup> We propose that all other suppliers manually process requests from their customers claiming eligibility for protection under the extended vulnerable safeguard tariff.

*Suppliers with 50,000 or more customers as at 31<sup>st</sup> March 2018:* We believe these relatively mature suppliers are well placed to bolster their operational capability if necessary to prepare for the data matching process in time for winter 2018/19. The size of these suppliers also means that the investment needed (if any) to bolster their operational capability and conduct the data matching exercise will very likely be outweighed by the overall benefits gained by their customers from saving money on their bills under the extended vulnerable safeguard tariff.

We need to attach a date to the 50,000 threshold (31<sup>st</sup> March 2018) now because suppliers exceeding this threshold need to begin their engagement with DWP straight away. The chosen date reflects the most recent point at which we hold accurate and reliable supplier size data.

*Suppliers active in the market for at least three years as of 31<sup>st</sup> December 2018:* We believe that suppliers meeting this threshold will also either already have the operational capability required to implement data matching by winter 2018/19 or are well placed to

---

<sup>8</sup> Given the vulnerable safeguard tariff is expected to be in place only for a short time before the default tariff cap is implemented, we have discounted the option of a delayed implementation for smaller suppliers.

<sup>9</sup> Tariffs and relevant benefits discussed above.

bolster their existing capability given their relative maturity in the market. In addition, customers on standard variable and default fixed term tariffs served by these suppliers are more likely to be disengaged compared to those who take their supply from a relatively new entrant (in most cases they will have made the active choice to switch to the new entrant at some point in the past three years).

This criterion aligns with the Competition and Markets Authority's (CMA) findings. The CMA identified certain groups of vulnerable customers as being less likely to have switched supplier in the last three years and less likely to consider switching in the next three years, providing a suitable indicator for disengagement.<sup>10</sup> Selecting a threshold date of 31<sup>st</sup> December 2018 reflects the approximate point at which the extended vulnerable safeguard tariff will take effect if we proceed with our proposals.

Under our revised proposals and using the latest available data, we have identified 25 suppliers who will be obligated to undertake data matching with DWP.<sup>11</sup> This means that 97% of consumers will be served by suppliers operating the data matching mechanism.<sup>12</sup>

#### *Additional analysis on non-WHD-obligated suppliers' data matching capability*

In addition to consultation responses and stakeholder workshops, we gathered further evidence on the operational implications of engaging with the data matching process for non-obligated WHD suppliers via a number of bi-lateral discussions with small and medium sized suppliers and other relevant third parties. We were especially keen to gather more evidence in this area because unlike for large and medium suppliers, we are conscious that smaller suppliers may not currently operate data matching processes and do not currently contract with DWP to data match in the same way that WHD obligated suppliers do.

The views and evidence we gathered strongly suggest that smaller suppliers would either already have, or easily be able to build the operational capability necessary to engage with data matching in time for winter 2018/19. We did not find evidence to suggest that the IT requirements or administrative burden would be unduly onerous. We received limited information concerning the costs of setup and operation although again the evidence we did receive suggested that costs would be small.<sup>13</sup> These views and evidence, added to our existing evidence base, provide us with confidence that all but the smallest or least mature suppliers can realistically participate in the data matching process in time for winter 2018/19.

#### *Suppliers who have less than 50,000 customers or who have been active in the market for less than three years as of 31<sup>st</sup> December 2018:*

We propose that these suppliers manually process requests from their customers claiming eligibility for protection under the extended vulnerable safeguard tariff.

As with other suppliers, we do not see any fundamental barriers to these suppliers adopting a data matching approach too. However, we are concerned that the challenges associated with bolstering operational capabilities in time for winter 2018/19 may be more acute for the smallest and least mature suppliers. We also recognise that the size of their customer bases may mean that investing in the operational capability required to data match may not outweigh the overall benefits accrued by the small number of their customers likely to be eligible for protection under an extended vulnerable safeguard tariff. We therefore propose that these suppliers manually verify eligibility where they are approached by their customer or deem a customer as being eligible.

---

<sup>10</sup> CMA (2016), [Energy market investigation – final report](#)

<sup>11</sup> Based on meter point data from network operators used as a proxy for customer numbers as of 31 March 2018 and on Ofgem analysis of domestic supplier active market date.

<sup>12</sup> Figure based on Ofgem analysis of gas and electricity distribution network operator reports. Information correct as of 31 March 2018.

<sup>13</sup> See [Bristol Energy consultation response](#) to December 2017 consultation, page 3

To raise awareness and encourage customer engagement, we are also proposing that these suppliers publicise the availability of an extended vulnerable safeguard tariff to their customers. We propose that they formulate their own awareness raising strategies, using both their websites and other channels to raise awareness.

## Appendix 2 List of welfare benefits

Benefits		Included in proposal
Attendance Allowance	Jobseeker's Allowance	<i>As per December 2017 consultation</i>
Bereavement Benefit	Pension Credit	
Carer's Allowance	Personal Independence Payment	
Disability Living Allowance	Severe Disablement Allowance	
Employment and Support Allowance	Universal Credit	
Housing Benefit	Widow's Benefit	
Incapacity Benefit	Income Support	
Working and Child Tax Credits		<i>Additional benefits to be included</i>