



Making a positive difference
for energy consumers

To: Suppliers and their
representatives

Direct Dial: 020 7901 1883

Email:
SwitchingCompensation@ofgem.gov.uk

Date: 10 April 2019

Dear Colleague,

Supplier Guaranteed Standards of Performance for Switching: Record keeping requirements and clarification of Ofgem's policy intent relating to implementation

As you will be aware, from 1st May 2019 all suppliers with domestic gas or electricity customers will be required to meet new Guaranteed Standards for Switching, and to compensate consumers where these Guaranteed Standards are not met.¹

It is our expectation that suppliers will approach the payment of Guaranteed Standards in good faith. As is required under the existing mechanism for paying Guaranteed Standards, suppliers will need to proactively identify where standards are breached and make payments to eligible consumers using an appropriate payment mechanism.

The purpose of this letter is to provide further clarity on Ofgem's policy intent in the areas below, where this has been requested by stakeholders. Suppliers should consider with their own advisors how to manage any failure to meet a Guaranteed Standard on a case by case basis. Suppliers must comply with the Regulations, and consider whether their actions are captured by both the spirit and letter of the Customer Objective and Standards of Conduct.²

Additional payments: current position and ongoing analysis

It is our intention that the requirement to pay compensation should incentivise the rapid resolution of erroneous transfers and return of credit balances. Under the terms of the Statutory Instrument as drafted, only one additional standard payment can be made as result of the same single failure under the Guaranteed Standards.³ This rule also applies to all the new Regulations which come into force on 1 May 2019.

However, in our final decision on the Statutory Instrument, we said that we would monitor the time taken by suppliers to resolve the issues covered by the new Regulations, to see

¹ The Final Decision and Statutory Instrument was published on our website on 13th February 2019. See "Supplier Guaranteed Standards of Performance for Switching - Final Decision and Statutory Instrument" at <https://www.ofgem.gov.uk/publications-and-updates/supplier-guaranteed-standards-performance-switching-final-decision-and-statutory-instrument>.

² Suppliers are reminded of the requirement to treat customers fairly under Condition 0 of the Gas Supplier Licence and Electricity Supplier Licence. See <https://www.ofgem.gov.uk/licences-industry-codes-and-standards/licences/licence-conditions>.

³ Under the terms of the Regulations, an 'additional standard payment' is a payment to the customer required by the supplier's failure to provide the original standard payment on a timely basis.

whether a cap on the number of additional payments weakens the incentive upon suppliers to resolve ongoing issues, potentially resulting in more consumer detriment.⁴

To this end, in addition to the data that we intend to collect as part of our regular reporting, we intend to collect data allowing us to undertake analysis of the amount of time that is taken by suppliers to resolve issues such as erroneous transfers and repayment of credit balances. This will not form part of our ongoing monitoring of performance against the Guaranteed Standards (and as a result we have not included it in the template for ongoing data requests), but we would like to collect data which will inform our decision on whether to amend the Regulations to allow further additional payments to be made for issues that continue to be unresolved as part of our second Statutory Instrument. We have provided an indication of the types of data that we may wish to collect in Annex 3.

“In flight” switches at implementation date

The need to pay compensation as a result of a breach of the Guaranteed Standards will only apply to those switches that are initiated by the customer on or after 1 May 2019. Switches in place before this date will not be subject to compensation payments. However, this does not mean that we expect suppliers to pay less attention to these switches or to offer a lesser level of service to these customers.

“20 working day” letters

Some stakeholders have asked whether the communication to customers of the outcome of an investigation required by Regulation 6B should have a prescribed format.⁵ We have also been asked whether a communication indicating that an erroneous transfer was under a continuing investigation where that investigation had not been resolved within 20 working days would negate the need for a compensation payment.

The requirement for a communication to the customer informing them of the outcome of an investigation and that they will be returned to their original supplier via the Erroneous Transfer procedure (a “20 working day letter”) is contained within the Erroneous Transfer Customer Charter, which forms a schedule of both SPAA and MRA (and will in future form part of the Retail Energy Code (REC)). This communication should tell the customer of the outcome of the investigation and that they will be returned to their old supplier via the Erroneous Transfer procedure where an erroneous switch is identified. The communication should be clear, fair and not misleading and should be delivered in a format to which the customer can recover to make future reference. Outside of these requirements, the supplier may choose a style that is most relevant to the consumer.

Suppliers should note that the purpose of Regulation 6B is that the customer is informed of the outcome of an investigation, and how their supply will be restored, within 20 working days. Therefore, to send a holding communication informing the consumer that the matter is still under investigation would not meet the terms of the Guaranteed Standard of Performance, and a the supplier would still be required to make a standard payment to the customer.

Suppliers should note that the requirement to send a 20 working day letter is required by industry codes in addition to the requirement contained within the Guaranteed Standards. Suppliers should ensure that any communication meets the requirements set out in the relevant codes as well as those arising from the Guaranteed Standards.

Addressing Dual Fuel switches with different supply end dates

⁴ See “Supplier Guaranteed Standards of Performance for Switching - Final Decision and Statutory Instrument” at https://www.ofgem.gov.uk/system/files/docs/2019/02/final_decision_on_si_for_switching_compensation.pdf, p2

⁵ Regulation 6B requires a supplier to communicate the outcome of an investigation into an erroneous switch to a consumer. See <http://www.legislation.gov.uk/ukxi/2019/218/regulation/3/made>.

Under existing registration arrangements, customers' supply accounts for electricity and gas are switched separately, under separate timelines and systems. As a result, even in a dual fuel to dual fuel switch, suppliers may have different start or end dates for the supply of either fuel. In addition, suppliers may have different approaches to managing customer accounts and billing – some suppliers will manage the supply of gas and electricity to a single premises as a single customer account, whereas others will manage and bill each fuel separately, even if the customer switches both fuels to or away from that supplier at the same time.

The Regulations deliberately do not differentiate between single and dual fuel switches in addressing consumer detriment. The customer will experience a certain amount of detriment regardless of whether an erroneous transfer or a delay in recovering a credit balance relates to a single or dual fuel switch, or a single fuel within a dual fuel switch.

Our policy intention is that a single standard payment should be made for a failure to meet a Guaranteed Standard within a single switch event by each supplier who is responsible for that failure. If the customer switches both electricity and gas from an old dual-fuel supplier to a new dual-fuel supplier at the same time, this would constitute a single switch event, even if the supply end dates for each fuel are different. This approach is set out in our Way Forward document.⁶

If a customer switches from two single-fuel gas and electricity supply contracts with separate suppliers to a dual fuel supply contract where electricity and gas are provided by the same supplier, or switched from a dual fuel supplier to separate gas and electricity suppliers at the same time, we would expect that the dual-fuel supplier would make a single payment if they failed to meet a single Guaranteed Standard, even if they failed to meet this Guaranteed Standard for both fuels. The single-fuel gas and electricity suppliers would individually make a single standard payment if and where each was in breach of a Guaranteed Standard.

This means that a customer could theoretically receive standard payments from three suppliers in a single switch, if all three suppliers (the dual fuel supplier and two single fuel suppliers) were in breach of Guaranteed Standards. All suppliers would be required to make the full standard payment when it was incurred, and would be liable for an additional standard payment if they failed to make this payment on a timely basis.

Suppliers should consider the circumstances of the switch when deciding whether to consider it as a single switch. Whilst a switch made by the same customer on clearly separate occasions would usually constitute two switches, a supplier might reasonably conclude that if the same customer notifies them of their desire to switch to them within a short space of time (for example within the same day, or on consecutive days), then this should be considered as a single switch. Similarly, a supplier might receive notification of a customer switching their electricity supply (through MPAS) and their gas supply (from their shipper) at different times, but might reasonably conclude that this was a dual fuel switch.

If a customer is billed separately for gas and electricity under a dual-fuel contract, a single compensation payment for a late credit balance return would be required under Regulation 6D if the supplier had failed to return both or either credit balances ten working days or more after the issue of the later of the two final bills. Suppliers should note, however, that there remains a licence requirement to issue a final bill within six weeks of a switch, and that this should not be views as a reason to unduly delay the issue of a final bill.

Some illustrative examples of different scenarios are provided below, outlining when suppliers should consider a switch to be single or multiple events. However, suppliers should consider for themselves what constitutes the fair treatment of customers when deciding whether it is appropriate to make a single (or multiple) standard payment.

⁶ See "Supplier Guaranteed Standards of Performance for Switching - Final Decision and Statutory Instrument" at https://www.ofgem.gov.uk/system/files/docs/2018/12/way_forward_on_supplier_guaranteed_standards_or_switching_and_si_consultation_on_a_statutory_instrument_to_bring_them_into_force.pdf, pp33-34

Example i: dual fuel to dual fuel switch, Guaranteed Standard breached in the switch of both fuels.



Example ii: dual fuel to dual fuel switch, Guaranteed Standard breached in the switch of one fuel.



Examples *i* and *ii* above both represent a single switch event, even if the effective dates for each switch differ, as the customer has made one request to transfer from one supplier to another supplier. In each case a single standard payment would be made per supplier for each of the Regulations that was breached, even though in example *i* the same regulations may have been breached for both fuels.⁷

Example iii: two single fuel to dual fuel, Guaranteed Standard breached in the switch of both fuels.



In the example *iii* above, a customer is switching from two old suppliers (OS1 and OS2) to a single new supplier (NS). It is likely that in such an instance a single switch request would be made to NS by the customer. That request would then be communicated to OS1 through their gas shipper and OS2 through MPAS. In the example above, both OS1 and OS2 would be required to make a full standard payment to the customer where they had breached a Guaranteed Standard. NS would make a single standard payment to the customer per Guaranteed Standard that was breached, even if the breach occurred in the switch of both fuels. For example, if both the customer’s electricity and gas supplies were erroneously switched, and NS was unable to reach agreement within 21 working days that an erroneous switch had taken place with both OS1 and OS2 (thereby breaching Regulation 6A), NS, OS1 and OS2 would be liable to make a standard payment of £30 under the terms of that Regulation.

Example iv: dual fuel to two single fuel, Guaranteed Standard breached in the switch of both fuels.



⁷ However, the suppliers may be liable to make additional standard payments in the event of their failure to deliver the original standard payment on a timely basis.

Example *iv* above illustrates a switch of a dual-fuel customer to two single fuel contracts with new suppliers (NS1 and NS2). In this case the old supplier (OS) would receive notification of the loss of a customer through MPAS and their old shipper, for electricity and gas respectively. This notification may be received at different times depending on the activities of the new supplier in each fuel. OS would need to make a judgement about whether these constituted a single or different switch requests before deciding whether to make one or two Guaranteed Standard payments. This decision would be likely to be influenced by factors such as the interval between the original requests being received.

Legacy Prepayment meters

Following publication of the final Statutory Instrument, we have been notified that some suppliers issue customers with prepayment meters a credit to use against future fuel payments with a different supplier following a switch away. For the purpose of Regulation 6D we would consider issuing the customer with this form of onward credit to be equivalent to a refund of a credit balance by other means (such as a cheque payment). If a supplier fails to issue such a credit within ten working days of the issue of a final bill, they would be liable to make a standard payment under the Regulations, just as they would upon a failure to refund a credit balance in any other form. In keeping with their duty to treat customers fairly, suppliers should consider the fairest and most appropriate method to make a standard payment, and act accordingly. This may include making the payment in the form of a further credit to the customer, if the supplier deems this to be appropriate (for instance if there is a risk of the customer being unable to process a cheque payment due to not having a bank account).

Change of supply and change of tenancy

Some parties have asked us whether Regulation 6D, relating to the return of credit balances, should apply where a supplier provides a final bill to a customer who is leaving a property as a result of a change of tenancy, rather than the change of supplier at a particular location or meter point.

Regulation 6D (1)(a)(ii) indicates that Regulation 6D applies where a supplier no longer has responsibility for the supply of electricity or gas to the customer where; (i) a customer switches to another supplier, or, (ii) "a supplier's responsibility for the supply of electricity or gas to the customer has otherwise terminated".⁸ This relates to the supply to the customer rather than the supply to a particular premises or meter point.

It is our intention that the Guaranteed Standard should apply to any credit balance after a final bill has been issued to a customer. This would include final bills issued after a change of tenancy, or other circumstances where the customer's contractual relationship with the supplier has ended; where the customer has requested the return of their credit balance, or where the customer has requested a final bill. This would apply whether or not the supplier continues to supply the premises to which the final bill relates, and would therefore include a switch of supplier where the customer remains at the premises, where a change of tenancy agreement has occurred at the premises, or whether an owner-occupier is moving away from a premises but a supply relationship remains in place.

Record keeping requirements: sample template for regular data requests

In our consultation,⁹ published in June 2018, and our policy decision,¹⁰ published in November 2018, we noted that suppliers should keep accurate records which enable them

⁸ See "The Electricity and Gas (Standards of Performance) (Suppliers) (Amendment) Regulations 2019", at <http://www.legislation.gov.uk/ukxi/2019/218/regulation/3/made>

⁹ See "Supplier Guaranteed Standards of Performance: Consultation on Switching Compensation" at <https://www.ofgem.gov.uk/publications-and-updates/supplier-guaranteed-standards-performance-consultation-switching-compensation>, 12 June 2018.

¹⁰ See "Supplier Guaranteed Standards of Performance: Decision on Switching Compensation" at <https://www.ofgem.gov.uk/publications-and-updates/supplier-guaranteed-standards-performance-decision-switching-compensation>, 23 November 2018.

to identify all cases relating to breaches of any new Guaranteed Standards. Accurate record keeping by suppliers will allow Ofgem to assess how the Guaranteed Standards are being applied, and will also allow suppliers themselves to track their own performance. We intend to make periodic requests on behalf of the Gas and Electricity Market Authority (GEMA) using our statutory and regulatory powers. The purpose of this request will be to enable monitoring of how suppliers are applying the Regulations.

A sample template for data collection, demonstrating the format for making these records should be found in Annex 1 to this document. This table will be reproduced in a downloadable spreadsheet format on the Ofgem website. Suppliers should not use the sample template in Annex 1 to return data to us. As set out in our consultation, our ultimate intention is to publish this data (although suppliers will of course be able to publish their own data should they so choose). We consider that the publication of data on supplier performance is likely to be a useful tool for consumers in exercising choice over suppliers based on quality of service, and will act as a further incentive for suppliers to take steps to improve performance.

We expect that all suppliers should complete the information contained within the template and return it to Ofgem on a periodic basis (likely to be quarterly), starting in the quarter when the Guaranteed Standards are first paid. Whilst we may make changes to this template in future, we will give suppliers adequate warning of any changes and issue a new template accordingly. We will update the template following the adoption of the second tranche of Guaranteed Standards in late summer 2019.

We hope that this further clarity will be useful to suppliers seeking to implement the new Guaranteed Standards on 1st May. Any further questions about the Regulations can be sent to SwitchingCompensation@ofgem.gov.uk.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Rachel Clark', written in a cursive style.

Rachel Clark
Programme Director, Switching Programme

Annex 1: Required reporting format for new Guaranteed Standards

SAMPLE TEMPLATE - PLEASE DO NOT USE FOR DATA RETURNS

Reporting Period	Supplier Name	Regulation As Supplier	Customer Service Returners	Number of Guaranteed Standard payments made	Number of Guaranteed Standard payments made within required timeframe	Number of additional payments made	Total value of payments made under this standard	Number of declined payments or exempted events
		New						
		Old						
		6A New						
		6A Old						
		6B Contacted						
		6C Old						
		6D Old						

Annex 2: Explanatory note to Annex 1

This annex provides explanatory notes to the columns of data in the reporting template contained in Annex 1.

Reporting period (quarter/year)	Reporting periods should relate to quarters of the calendar year, e.g. January to March 2019 would be Q1 2019. Reporting will start in Q2 2019. Please note that Q2 2019 will record two months' worth of data rather than three as the implementation date of the Statutory Instrument is 1 st May 2019.
Supplier name	This should be the name used by the supplier on its supply licence. If a supplier holds more than one licence, please compile a report for each instance.
Regulation	The Regulation to which the data in this row applies.
As Supplier	The role that the supplier in question occupies in the switch to which this Regulation applies (usually the gaining (new) or losing (old) supplier, or the supplier that the customer contacts in the case of Regulation 6B).
Number of Customer Service Returners	The number of customer service returners (customers who have exercised the right to cancel a switch within the 14 day 'cooling-off' period) processed by the supplier as a: <ul style="list-style-type: none"> 'new' supplier (where the customer has returned to their original supplier from the reporting supplier within the 14 day period); and 'old' supplier (where the customer has returned to the reporting supplier from another supplier within the 14 day period).
Number of Guaranteed Standard payments made	The number of Guaranteed Standard payments made by the supplier, for each of the Regulations, specifying where these payments are made as: <ul style="list-style-type: none"> the 'old' or 'new' supplier under Regulation 6A; the supplier whom the customer originally notifies a suspected erroneous switch under Regulation 6B; or the 'old' (losing) supplier under Regulations 6C and 6D. Suppliers should not differentiate between payments made for single- or dual-fuel switches.
Number of Guaranteed Standard payments made within required timeframe	The number of Guaranteed Standard payments made within the timeframe as required by Regulations 6A to 6D.
Number of additional payments made	The number of additional standard payments made as required under Regulation 8 of the Guaranteed Standards, where the supplier has failed to make a payment within the timeframe as required by Regulations 6A to 6D.
Total value of payments made under this standard	The total value (in pounds sterling) of payments made under a particular standard in a quarter.
Number of declined payments or exempted events	The number of rejected claims, where a Guaranteed Standard which would otherwise have been paid but where no payment has been made due to one of the exclusions as set out in the Regulations.

Annex 3: Additional data requested from suppliers to inform the removal of a 'cap' on additional standard payments

This annex details the additional data that we are likely to request from suppliers in order to inform our decision on whether to amend the Regulations to allow further additional payments to be made for episodes of consumer detriment that continue to be unresolved after the payment of a first Additional Standard Payment.

We have not included this in the template for ongoing data requests and it will not form part of our regular reporting of Guaranteed Standards, but will form part of a specific, one-off request for information ahead of our second Statutory Instrument. We may collect any data that suppliers possess on the time taken between notification of erroneous switches and their resolution, and between the issue of final bills and the return of credit balances. We may also use data from other parties to inform our decision.

The table below provides an indication of the data that we would be interested in obtaining from suppliers.

Regulation	Data for collection
6D	The average and maximum time taken to return a credit balance after the issuance of a final bill.
6D	The number of credit balances refunded more than 10 working days after issuance of a final bill.
6D	The number of credit balances refunded more than 20 working days after issuance of a final bill.