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## Call for Input Response

### Which? response to the Ofgem Calls for Input on Consumer Outcomes and Reviewing the Supplier Guaranteed Standards of Performance

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#### Summary

Which? welcomes this opportunity to respond to Ofgem's Calls for Input on:

- Consumer Outcomes, and,
- Reviewing the Supplier Guaranteed Standards of Performance.

Regulatory reform in the energy sector must primarily focus on enhancing consumer trust, and is the guiding principle of this response. This focus is essential because of the increasing consumer exposure to novel products and services as the energy transition accelerates, and an effective and fair transition can only happen if consumers trust the sector. The Which? [Consumer insight tracker](#) shows that the energy sector still remains poorly trusted as a whole, [despite many good providers](#). Consumers continue to experience a [wide range of problems](#) and there have been several cases where failures of regulation have undermined wider trust in the sector.

We are therefore pleased to see that the Consumer Outcomes Call for Input recognises that whilst outcomes-based rules can deliver positive results for consumers, success depends on key conditions being met. The Call for Input also recognises that the argument is not academic - the effectiveness of any regulatory approach depends on the implementation and practice of day-to-day regulation.

We urge Ofgem to bear in mind the following:

- Ofgem must not take its focus away from the basics of effective regulation: clear expectations, effective monitoring, transparency and timely enforcement
- It is not a binary choice between outcomes and rules-based regulation:
  - the full range of regulatory approaches should be used in combination to improve consumer outcomes,
  - consumers must be able to smoothly access redress for unlawful treatment based on their individual circumstances

- Outcomes-based regulation in the financial sector has been accompanied by substantial regulatory guidance and Ofgem must incorporate lessons from the experience of this sector to avoid regulatory uncertainty and delay
- The measurement of consumer outcomes will need to keep up to date with developments in the market and consumer priorities

If a Consumer Outcomes regulatory approach can be introduced in a way that is complementary to effective regulation then it could open up some opportunities, including:

- A greater focus on the purpose of customer communication through the energy bill, allowing greater flexibility in how information is presented - although regulation must still ensure that important information such as rights to redress are communicated clearly,
- An improved approach to the regulation of innovative technologies and approaches within the sector,
- The application of regulation based on consumer outcomes to all firms that have a material influence over retail consumer outcomes, as in the financial sector.

Overall, given the issues experienced in the energy sector over the past few years, it would not be appropriate for Ofgem to move wholly to an outcomes-based approach. We strongly urge Ofgem not to simply introduce Consumer Outcomes that replace the existing rules. Such a move would increase difficulties with enforcement procedures, create regulatory uncertainty in the sector, and have highly uncertain effects on the culture of the industry.

Turning to the review of the Supplier Guaranteed Standards of Performance, we think that it is important that consumers are aware of the Guaranteed Standards of Performance because greater awareness would both contribute to building trust in the industry and also allow for quicker identification and resolution of instances where consumers don't get what they are entitled to. To raise awareness we think that Ofgem should:

- Publish consistent information about the number of instances that suppliers have had to pay compensation for failing to meet Guaranteed Standards of Performance,
- Consider a licence condition that requires energy suppliers to raise consumer awareness of their compensation rights. This is an appropriate area for an outcomes-based approach, as it would allow firms the flexibility to identify the most effective times and methods to communicate with consumers.

## Full response

Which? welcomes this opportunity to respond to Ofgem's two Calls for Input on:

- Consumer Outcomes, and,
- Reviewing the Supplier Guaranteed Standards of Performance.

We have split our responses below into the two respective Calls for Input. The fundamental principle guiding our responses is that regulatory reform in the energy sector must prioritise improving consumer trust.

### Our response on the Call for Input on Consumer Outcomes

#### **Improving trust in the energy sector should be a central goal of regulatory reform**

*Relevant to Q1. In your view, what are the key factors we should consider if we are updating our regulatory framework for retail energy suppliers, keeping in mind the balance between our growth and net zero goals, and consumer interest duties?*

As you set out, you are seeking to establish a set of Consumer Outcomes and review how you use your regulatory tools to achieve them, ensuring that the energy regulatory framework “embraces competition, enables innovation, and supports growth while protecting consumers.” Ofgem’s regulatory approach is particularly important in the context of the energy transition and the significant changes that consumers will need to make in the way that they use energy. Consumer protection will be critical in building and maintaining consumer trust and confidence as the sector introduces new products and services that may be unfamiliar to most consumers.

Unfortunately despite recent improvements in customer satisfaction in Ofgem’s Consumer Satisfaction survey, the energy sector still remains poorly trusted. The Which? [Consumer insight tracker](#) shows that the energy sector as a whole still continues to have trust levels consistently lower than other sectors such as banking, food and groceries, water and broadband. Although falling somewhat since the energy crisis, complaints to the Energy Ombudsman are still at a high level.<sup>1</sup> Our [consumer engagement](#) continues to find a wide range of consumer problems, with the most common problems including direct debit payments being set too high, smart meters failing to send readings automatically and inaccurate bills.

However, trust is often affected by consumers' personal experience of their energy provider. Our [annual survey of energy providers](#) shows considerable variation in customer satisfaction and customer service levels depending on which energy company consumers choose, with some companies receiving high scores from their customers. This illustrates that achieving good consumer outcomes is possible, and the regulatory system should not accept the poor outcomes that are seen in substantial parts of the sector. For example:

- 8 (out of 17) of the companies we assessed in our annual survey scored only two stars (out of 5) for customer service overall,

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<sup>1</sup> See, for example, the [Energy Ombudsman latest data](#) showing an average of nearly 20,000 accepted complaints per quarter for the four quarters to September 2025.

- Performance on switching is highly variable across the sector as shown in the range of ratings in our annual survey. We assess these on the basis of instances in which suppliers have had to pay compensation for failing to meet Ofgem's Guaranteed Standards of Performance,
- Despite signs of improvement amongst large suppliers, as of the third quarter of 2025 there were still over 1,000 complaints received per 100,000 customers for both large and medium suppliers ([Ofgem Customer Service data](#))

In addition to these examples, there have been several cases where a failure of regulation has affected many consumers and undermined trust in the sector. This includes the collapse of several energy companies during the energy crisis, persistent problems with the installation of smart meters and practices such as the forced installation of prepayment meters in clear contravention of licence conditions.

Given the issues experienced in the energy sector over the past few years, it would not be appropriate for Ofgem to move wholly to an outcomes-based approach. We strongly urge Ofgem not to simply introduce Consumer Outcomes that replace the existing rules. Such a move would create regulatory uncertainty within the sector, complicate enforcement procedures, and have unpredictable effects on the industry's culture.

We focus our response below on how Ofgem uses its regulatory tools to achieve the Consumer Outcomes, as we broadly agree with how the Consumer Outcomes themselves have been defined. We wish to provide input based on our experience in cross-sector consumer policy, including in particular:

- The implementation and impact of the move towards outcomes-based regulation in the financial sector
- Our annual review of energy company performance, informing which companies receive our Which? Recommend Provider rating

### **Ofgem must not take its focus away from the basics of effective regulation:**

*Relevant to:*

- *Q1. In your view, what are the key factors we should consider if we are updating our regulatory framework for retail energy suppliers, keeping in mind the balance between our growth and net zero goals, and consumer interest duties?*
- *Q15. Which of the monitoring approaches we outline below would be the most effective for monitoring supplier performance against the Consumer Outcomes? Are there alternative approaches? Please provide evidence.*

Ofgem's principal statutory objective is to protect the interests of consumers in relevant markets, where appropriate by promoting competition. This objective rightly reflects the fact that competition alone is insufficient to deliver good consumer outcomes in essential utility markets, and hence there are certain basics of effective regulation that will be needed. These remain the same whatever the balance between a rules-based or outcomes based framework:

- Transparent and effective monitoring of company performance
- Clear and robust systems to judge the effectiveness of the regulatory system against its goals

- Robust, timely and transparent enforcement is carried out against companies that do not deliver against consumer outcomes, fall below conduct standards or fail to meet rules-based regulations

As set out in the Consumer Outcomes Call for Input, outcomes-based rules can deliver positive results for consumers but success depends on key conditions. The Call for Input rightly recognises that argument is not academic - it is the implementation and practice of day-to-day regulation that determines whether it is effective or not. We urge Ofgem to put substantial effort into making sure that the culture of both the regulator and the industry is not adversely affected by hearing an incorrect message that a shift towards an outcomes based framework equates to looser regulation. Monitoring, enforcement and transparency are key to good regulation.

Key examples include:

- **Enforcement:** In the financial sector we have seen delays to elements of the "bread-and-butter" of regulatory action due to the shift towards an outcomes based framework. The move towards outcomes-based regulation, and in particular the introduction of the Consumer Duty, was a major change and the FCA gave firms considerable time to better understand the new regulatory approach and to change their practices.<sup>2</sup> We think there is a substantial risk that delays such as these in the energy sector would take focus away from enforcing current rules and concluding important ongoing enforcement activity. For example, it is now almost three years since the launch of the investigation into [British gas prepayment meter installations](#), described as urgent when it was first launched. It is unclear why this investigation has not concluded. Any form of regulation must be backed up by timely and robust enforcement, and resources should be prioritised to make sure that such long delays in investigations do not happen.
- **Monitoring and transparency:**
  - Greater transparency is essential, and especially so with an outcomes-based framework. Making energy companies' performance data public helps consumers choose suppliers and improves accountability, driving better compliance. Although Ofgem publish some performance data, we think that more data could be collected and published on a consistent basis - for example in our response later in this document to the Guaranteed Standards of Performance review, we cover a specific example regarding instances where compensation payments have been made. Such transparency will be key in an outcomes-based framework, but we do not think it needs to wait for the outcome of this programme.
  - Ofgem has the ability to ensure consistency in data collection and reporting across companies. Robust data requirements help to develop trust through enabling the comparison of performance between companies and the monitoring of progress over time. Ofgem should also gather and publish supplementary data from consumers and other stakeholders to identify

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<sup>2</sup> [The FCA's CEO stated to the Treasury Select Committee](#) that "We said all the way through the implementation process that after 31 July we would take a proportionate approach. We are not going to go in and seek to enforce every technical breach of the consumer duty. We are going to go after the most egregious harms to allow the duty to settle in over the coming period."

issues not covered by consumer and company data, and shed further light on delivered outcomes.

- There is also a strong case for publishing company data on other issues that are important to consumers but may be less of a day to day concern. For example, the extent to which companies are meeting their obligations to repair smart meters that have stopped working. This information will enable journalists and consumer groups to monitor performance in an area that is critical to the energy transition but has been dogged by poor performance and low consumer trust.

## **It is not a binary choice between outcomes-based and rules-based regulation**

*Relevant to:*

- *Q9. Do you have a preferred approach among those outlined below or should we retain the current framework? Do you have an alternative suggestion? Please explain your reasoning.*
- *Q14. What factors should we consider to determine whether specific rules are best delivered through prescription, principles or outcomes?*

Given the issues experienced in the energy sector over the past few years, it would not be appropriate for Ofgem to move wholly to an outcomes-based approach. We strongly urge Ofgem not to simply introduce the Consumer Outcomes as rules that replace the existing rules. Such a move would create regulatory uncertainty within the sector, complicate enforcement procedures, and have unpredictable effects on the industry's culture.

Well-specified outcomes that are both measurable and substantively under the control of companies can allow for effective regulation whilst providing greater flexibility. However, in many areas it may be very difficult to measure outcomes robustly or use them as regulatory tools if they are not under companies control.

There are already examples of an outcomes-based approach from within Ofgem's current regulatory approach. Ofgem licence conditions currently establish a "customer objective", which is supported by the Standards of Conduct that the supplier should follow in order to meet that objective: "The objective of this condition is for the licensee and any Representative to ensure that each Domestic Customer, including each Domestic Customer in a Vulnerable Situation, is treated fairly."

The financial sector has similar outcome based rules, such as these examples contained within the [Insurance: Conduct of Business sourcebook](#) (ICOBS).

- "An insurer must:
  - (1) handle claims promptly and fairly;
  - (2) provide reasonable guidance to help a policyholder make a claim and appropriate information on its progress;
  - (3) not unreasonably reject a claim (including by terminating or avoiding a policy); and
  - (4) settle claims promptly once settlement terms are agreed." (ICOBS 8.1.1(1))
- "A firm must act honestly, fairly and professionally in accordance with the best interests of its customer." (ICOBS, 2.5.-1).

- “A firm must ensure that a customer is given appropriate information about a policy in good time and in a comprehensible form so that the customer can make an informed decision about the arrangements proposed.” (ICOBS 6.1.5(1))

These outcomes are used by the FCA in supervisory arrangements and the Financial Ombudsman Service in judging individual cases - such as in [this case](#) for example.

As these examples illustrate, outcomes based regulation can (and should) be used as one regulatory tool alongside detailed rules and conduct/process-based standards where these are most appropriate. The approach taken should depend on factors such as the risk to consumers, the type of outcomes desired and the ability to measure and attribute those outcomes.

Removal of detailed Ofgem standards, or making them less specific, should be done with care. Unfortunately past experience has indicated that they are often essential to ensure that consumers are fairly treated, such as in relation to the [recent standards](#) on customer service and vulnerable consumers.

## Outcomes-based regulation has been accompanied by substantial regulatory guidance

Relevant to:

- Q9. Do you have a preferred approach among those outlined below or should we retain the current framework? Do you have an alternative suggestion? Please explain your reasoning.
- Q14. What factors should we consider to determine whether specific rules are best delivered through prescription, principles or outcomes?

The experience from the Financial Sector is that outcomes-based regulation under the Consumer Duty has been accompanied by substantial regulatory guidance, to avoid a lack of legal certainty for businesses and consumers. We have seen an extensive and constantly growing set of guidance from the FCA, often asked for by industry participants. This illustrates the risk of presuming that outcomes based regulation necessarily reduces administrative burden. For example, this guidance includes:

- The original [121 page guidance document](#).
- A [dedicated section of the FCA website](#) for firms devoted to explaining the Duty
- A series of multi-firm reviews into aspects of the Duty and its application to different sectors, for example:
  - [Price and Value Outcome: Good and Poor Practice update](#)
  - [Consumer Support Outcome: good practice and areas for improvement](#)
  - [Payments Consumer Duty multi-firm review](#)
- “Dear CEO” letters setting out priorities for certain sectors

In the financial sector we have also seen an increasing amount of focus on the role of Financial Ombudsman Service from industry and increased calls for further regulatory guidance to reduce the perceived need for the Ombudsman to establish standards in order to decide cases. These issues are particularly relevant for the energy sector, given that it also has a mandatory ombudsman. For example, in the FCA's July 2025 [consultation on Modernising the Redress System](#), the FCA reports views it received through an earlier Call for Input: “*Some industry respondents stated the Financial Ombudsman acts as a*

*'quasi-regulator' in that its approach to what is fair and reasonable creates new standards for firms. Some respondents were concerned the current approach to considering what is fair and reasonable can lead to inconsistent and unpredictable outcomes and they referred to the interpretation of the Consumer Duty and other less prescriptive regulations.*

*Respondents were also concerned that the current approach gives rise to new interpretations or retrospectively and improperly applying FCA rules and guidance. Some also called for greater Financial Ombudsman alignment with FCA rules and increased transparency in decision-making. Others also argued that placing fairness above legal standards or regulatory requirements risks distorting the market and undermines international competitiveness".*

There is also substantive risk that reliance on an outcomes-based framework makes it harder for consumers to seek individual redress through either the Ombudsman or the courts, if there is insufficient guidance. An example of where the Consumer Duty, and the related outcomes, did not help clarity is [this unsuccessful case reviewed by the Financial Ombudsman Service](#). In this case the consumer thought that the price and fair value outcomes would need to be taken into account when their insurer considered the appropriateness of a renewal premium following a minor incident being logged (for which the consumer bore no responsibility, and made no claim). However the Ombudsman disagreed, appearing to find that the Consumer Duty had little bearing on the firm's practices in this situation.

It will be important for Ofgem to learn the lessons from the financial sector's experience. When considering the removal of any existing rules, we recommend a thorough assessment be conducted to determine if such a removal truly serves the consumer interest. This assessment should take the following into account:

- The need for any new regulatory guidance to ensure clarity for both businesses and consumers.
- The effect the rule removal would have on consumers' ability to pursue individual redress.

## **The measurement of consumer outcomes needs to change with developments in the market**

*Relevant to Q15. Which of the monitoring approaches we outline below would be the most effective for monitoring supplier performance against the Consumer Outcomes? Are there alternative approaches? Please provide evidence.*

We have substantial experience in assessing energy firms against consumer outcomes. Our annual energy satisfaction survey and in-depth assessment of company practices allows us to rate which companies are set up in the best interests of their customers. We report our results and methods [here](#).

For our most recent survey, we asked nearly 12,000 energy customers about their experience of their current energy supplier with respect to:

- Overall satisfaction,
- Overall customer service,
- Ease of contacting,

- Usefulness of communications about energy costs,
- Accuracy of payments,
- Clarity of statements,
- Value for money, and,
- Customer communications.

We also collect a range of data, much of it through requests for information to suppliers, to allow us to assess each company's:

- Complaints performance,
- Customer contact practices and performance,
- Provision of help for those who need it ,
- Smart meter policies and performance against targets,
- Customer switching performance.

Our assessment allows us to rate each energy company based mostly on consumer outcomes, and to name our Which? Recommend Providers for each year. Ofgem may wish to bear in mind some considerations from our experience of operating this assessment:

- We cannot cover all elements of supplier practice and performance that may be important to the full range of consumers at different times, particularly in an essential service like energy,
- We continually update our assessment to reflect the changing market, consumer priorities and regulations. For example we removed a pricing assessment that we previously carried out when the energy price cap was introduced, added an assessment of smart meter installation performance when the latest targets were introduced and added a criteria looking at smart meter operating performance.
- We depend on the data collected and either published or provided to us by energy companies. Any outcomes-based framework must ensure that data on the elements we mention above is still available.

As well as our annual assessment, we conducted [in-depth research in 2024 into energy company customer service](#), showing that many consumers are frustrated by the difficulty in contacting their supplier and getting an effective response. We shared the results of our research with Ofgem at the time, and discussed the potential for Ofgem to collect and share company level data with consumers to support them in making informed decisions based on the service energy companies provide and to incentivise companies to improve their customer service. This type of assessment could help establish robust monitoring frameworks for energy company performance.

We would be happy to discuss our assessment procedures and research further.

We now turn to the potential opportunities that could be opened up if Consumer Outcomes can be introduced in a way that is complementary to current regulation.

## An outcomes framework could allow for some positive reforms for consumers, and an improved approach to the regulation of innovative technologies and approaches within the sector

*Relevant to Q11. Could a more outcomes-based regulatory framework benefit the supply market? Do you think this kind of approach could unlock innovation and growth? Please provide examples.*

An example of where a move towards outcome-based regulation may benefit consumers is in the design and content of energy bills. [Which? research](#) showed that consumers struggle to understand energy bills, but the ability of providers to adapt bills was limited by licence conditions that specified the information that had to be included and in some cases how and where this should be communicated. In the event many energy providers have now taken advantage of digital communications and apps to create more accessible presentations of the bill covering the information that consumers want and need. However, our [latest customer survey](#) still rates many companies poorly for the clarity of their statements. It remains important that consumers do have access to certain information, for example in the event of a dispute between the consumer and the provider, and it will also be important to assess where consistent presentation of information in consistent ways across suppliers is helpful to consumers. However, there is scope for beneficial reform here.

Rules-based regulation can also struggle to keep up with innovations in products, services and business models, particularly where technology is transforming industries.

Outcomes-based regulation has the potential to be effective in these circumstances, where the regulator can still use consumer outcomes frameworks even where they do not refer directly to an innovative offering or technique.

A core current example is the use of Artificial Intelligence. The FCA has stated that the Consumer Duty is "technology-agnostic"<sup>3</sup> and that "*Our regulatory approach is principles-based and focused on outcomes. We want to give firms flexibility to adapt to technological change and market developments, rather than detailed and prescriptive rules. We do not plan to introduce extra regulations for AI. Instead, we'll rely on existing frameworks, which mitigate many of the risks associated with AI. We believe that with a fast-moving technology like AI, this is the best way to support UK growth and competitiveness.*"<sup>4</sup>

A consumer outcomes based framework could help to enable innovation by energy firms, whilst still placing the onus on suppliers and other market participants to ensure that they are achieving good outcomes.

## Consumer outcomes could be applied to all firms that have a material influence over retail consumer outcomes

*Relevant to Q8. Do you see an opportunity for outcomes, though not necessarily the Consumer Outcomes set out in this call for input, to be applied to wider market participants? Who should they apply to and why?*

The Call for Input asks whether outcomes could be applied to wider market participants. This is a potential opportunity that would arise from establishing the Consumer Outcomes,

<sup>3</sup> [AI Update, FCA, April 2024](#)

<sup>4</sup> [AI and the FCA: Our Approach, FCA, September 2025](#)

as this has happened in the financial sector. The [FCA's Finalised Guidance](#) on the Consumer Duty states "*The Duty applies to all firms that have a material influence over, or determine, retail customer outcomes, for example if it can influence: the design or operation of a product or service; the price and value offered to the end consumer; the communications sent to customers; and the support provided to customers.*" The implementation of a set of Consumer Outcomes could enable the extension of regulation to firms in the energy sector that influence retail consumer outcomes.

In the financial sector there is some indication that this has led to better data exchange between organisations that are part of the supply chain, as companies are aware that the Consumer Duty applies to all organisations involved - for example:

- In February 2024 the [FCA stated that](#) "*We have seen firms reconsider their role in distribution chains and take steps to support good outcomes for the customer even if they do not have direct relationships with consumers.*"
- The requirement has prompted financial services trade associations to develop [more formal processes to exchange data between manufacturers & distributors.](#)

However, to our knowledge this has not been systematically assessed.

## **Our response on the Call for Input on Reviewing the Supplier Guaranteed Standards of Performance**

We focus on the Consumer awareness and Confidence section within the Call for Input on Reviewing the Supplier Guaranteed Standards of Performance (GSOP).

### **Q18. Is it important that consumers are aware of GSOPs? Why?**

It is important that consumers are aware of the Guaranteed Standards of Performance. This is for two reasons - as a contributory factor for building trust in the industry and to enable quicker identification and resolution of instances where consumers don't get what they are entitled to:

- [Consumer trust in the energy sector remains low](#), and the knowledge that there are a range of instances where companies should automatically compensate consumers for poor performance could serve as one way to tackle this issue,
- As the Call for Input makes clear there are several reasons why consumers may not receive compensation payments when they are entitled to them, including misinterpretation, lack of automation by some suppliers and potentially non-compliance through causes such as system breaches. Increased consumer awareness of what they are entitled to would facilitate earlier identification and swifter resolution of all these issues.

### **Q19. Are there any actions that Ofgem or suppliers should take to improve consumer awareness of the Guaranteed Standards?**

We propose two actions:

- (a) We think that Ofgem should publish consistent information about the number of instances that suppliers have had to pay compensation for failing to meet Guaranteed Standards of Performance. This information should also be published in

a standardised format to allow consumers to compare across suppliers. We currently collect this data through requests for information from individual companies. However, the standardised publication of this information would make it easier for consumers themselves to access this information and for consumer advocates and the media to use the data to communicate to consumers and drive up standards.

- (b) Ofgem should consider a licence condition that requires energy suppliers to raise consumer awareness of their compensation rights. This is an appropriate area for an outcomes-based approach, as consumer awareness is measurable and largely under the control of energy suppliers to influence. This would allow for flexibility in how GSOP rights were communicated, allowing firms to identify the most effective times and methods to communicate with consumers.

## About Which?

Which? is the UK's consumer champion, here to make life simpler, fairer and safer for everyone. Our research gets to the heart of consumer issues, our advice is impartial, and our rigorous product tests lead to expert recommendations. We're the independent consumer voice that works with politicians and lawmakers, investigates, holds businesses to account and makes change happen. As an organisation we're not for profit and all for making consumers more powerful.

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