

Ofgem,
9 Milbank,
London
SW1P 3GE

12 December 2007

Dear Claire,

Approval of Redress Schemes in the Energy Sector

Please find attached the Energy Retail Association response to the 'Approval of Redress Schemes in the Energy Sector' consultation.

The ERA, formed in 2003, represents domestic electricity and gas suppliers in the domestic market in Great Britain. All the main energy suppliers, operating in the residential market, in Great Britain are members of the association - British Gas, EDF Energy, npower, E.ON, Scottish Power, and Scottish and Southern Energy.

We strongly believe that an Ombudsman scheme is the best way to ensure customers have access to suitable means of redress, if they have not been able to have their complaint resolved by their energy supplier. We support extending the scheme to include other aspects of the supply chain and suppliers.

ERA members are fully committed to the Energy Supply Ombudsman (ESO), the benefits that it has brought customers as well as the feedback the ESO provides to suppliers.

I have answered the questions in the consultation in more detail below, however if you have any questions please do not hesitate to contact me.

Yours sincerely,

Frances Williamson
Industry Relations Manager
Energy Retail Association

Approval of Redress Schemes in the Energy Sector

Chapter three

Question 1: Do you agree with our view that an Ombudsman scheme is preferable to alternative models of redress for domestic customers? If not, please explain why.

We believe that an Ombudsman-based scheme offers significant benefits to customers and energy suppliers compared to arbitration or adjudication schemes, and this is why the ERA and its members set up the Energy Supply Ombudsman (ESO) in July 2006, as recommended as a result of the super complaint. This follows on from the precedence of other successful Ombudsmen, such as in telecoms and financial services.

As set out in the consultation document, an Ombudsman-based scheme offers considerable benefits for customers, as energy providers must have in place proper complaint handling processes and signpost the existence of the scheme to their customers in a variety of ways. The ESO can also help a customer submit a complaint to the scheme.

A key part of the value to suppliers, and in the medium term to customers, is that the ESO encourages service improvement in the industry by recommending changes to energy providers' processes where they see the potential for this to happen. Energy suppliers can therefore use this feedback to improve their overall service to all customers. The ESO also has an important role in informing Ofgem and the general public about ongoing issues in the industry, and publishing case studies and statistical information.

Question 2: Have we captured all of the issues we will need to take into account before giving our approval to more than one scheme? Please explain any additional issues you think we should take into account and your reasons why.

When the ESO was set up we felt it was crucial that there was one Ombudsman for customers to go to for a number of reasons. Currently 12% of complaints to the ESO¹ relate to transferring from one supplier to another. Resolving these complaints for the consumer would become more difficult for both the consumer and the Ombudsman, if the consumer had to negotiate with two separate Ombudsmen, as well as their previous and current energy suppliers.

Customers' awareness of other elements making up their energy supply, such as networks, may not be as clear as to what part of the supply chain their complaint relates to. Therefore a 'One Stop Shop' approach, which offers one 'brand' and one contact phone number and website to customers, but equally is able to support different types of complaints, would appear to be the most effective way to ensure customers do not get confused.

Although competition between service providers can help minimise costs it is essential to ensure that referral costs are proportionate. It is also important that service levels to customers are acceptable. Therefore a "balance mechanism" as Ofgem suggests in its consultation document, may be necessary to keep this in check.

For the reasons above, we do not feel that is necessary for Ofgem to actually approve more than one scheme as the current scheme "is working well at helping customers to resolve complaints after only 12 months of operation... [and is] helping a broad range of domestic customers, including vulnerable customers, to resolve their complaints. Initial research also shows that customer satisfaction with the new service is high."²

We prefer one scheme for simplicity for consumers, and ideally the existing Energy Supply Ombudsman and this is already established and becoming better known to customers. We recognise that level of rigour of the ESO may be a challenge for new entrants to the scheme, but we feel that this offers customers the best service.

There are also cost efficiencies to be had with one scheme with more members such as IT systems and HR. One scheme also has the benefit of being fair to all customers, so that resolution standards do not vary.

¹ Energy Supply Ombudsman Annual Report 2007

² Ofgem Press Release, Tuesday 27 November 2007 "Energy Supply Ombudsman's progress is positive, but suppliers must do more to boost profile"

Question 3: Do you agree with our approach to assessing whether a scheme is effectively open to all energy providers? If not, please explain what you think our approach should be and why.

The current Ombudsman arrangements cover the main domestic energy suppliers in Great Britain³ and the governance arrangements were set up to reflect this.

The ESO is overseen by The Ombudsman Service Limited, (TOSL⁴) which is a private limited company which operates on a not-for-profit basis. TOSL is governed by a Council which consists of six independent members and three representatives, one from each of the Member Boards. The ESO Member Board has one representative of each of the six member suppliers, one independent Council Member and the Chairman who is currently the Chief Executive of the ERA. The ESO representative on the TOSL council is currently the Chairman but could be any member of the ESO Member Board if the scheme was to be extended to all service providers. The ESO Member Board provides a budget and annual business plan for recommendation to the Finance Board.

The terms of reference of the current ESO state that other suppliers can join the service should they wish to. Currently, if other suppliers request to join the ESO, then consideration can be given to the details of the cost to them and their representation in the management of the service. TOSL may be able to provide more information on this.

Should the ESO membership expand to include more energy suppliers, or other areas of the energy supply chain, then a review of representation on boards would take place to ensure equitability in areas such as governance and financial arrangements. This review should be managed by the ESO, with advice and guidance from the British and Irish Ombudsman's Association. There are already examples of this in operation in other sectors, such as telecoms.

The current members of the ESO support the Ombudsman scheme being extended to all involved in supplying energy in a fair, reasonable and inclusive way. Current members have invested, both in effort and financially, in setting up this successful scheme to ensure that their customers have access to independent redress. Therefore there is a lot of information on the typical costs involved. Therefore we would suggest that an analysis of fixed and variable costs of the ESO to date could be carried out (by the ESO) which may be useful to ensure that any financial structure going forward is fair to all.

Question 4: Do you agree that different criteria could apply for micro-business customers? If not, please explain why.

The ERA supports the principle of extending the redress scheme. Individual members may wish to comment further here.

³ British Gas, EDF Energy, npower, E.ON, Scottish Power, and Scottish and Southern Energy

⁴ The Ombudsman Service Limited (TOSL) is the company which administers Otelio, the Office of the Telecommunications Ombudsman, The Energy Supply Ombudsman and The Surveyors Ombudsman Service

Question 5: Do you consider that different criteria for complaints from micro-business customers could be incorporated within a single overall scheme, while still allowing scope for a more cost-effective service to these customers? Please explain the reasons for your view.

The ERA supports the principle of extending the redress scheme. Individual members may wish to comment further here.

Question 6: Do you agree with our view of the maximum period of time a supplier should be allowed to resolve complaints before referral to the Ombudsman? If not, please explain why.

We fully agree with Ofgem that it is fundamental that suppliers have an opportunity to resolve complaints in-house before referring the customer to the Ombudsman. The benefits for suppliers of settling complaints in-house are clear, and in all instances this is what they aim to do.

Due to the nature of the energy supply business some complaints can take longer than eight weeks to fully resolve, such as crossed meters and complex billing issues. If the customer and the supplier are both happy with the complaint process and that the complaint will be resolved without the need for an Ombudsman to be involved, even if it takes longer than eight weeks, this should be acceptable. Therefore, after eight weeks have elapsed from the customer first making the complaint it should not be automatic that a complaint is referred to the Ombudsman.

However, suppliers recognise that it is important that the customer can ensure resolution of their issue in a reasonable period of time. This is why we have already agreed that as of 1 January 2008 the ESO will consider a complaint if the customer either has a deadlock letter or their provider has had more than eight weeks to resolve the complaint.

All companies who are members of the Ombudsman scheme should be treated in the same way, and should be meeting the eight week deadline. This will ensure that customers know where they stand and that the process for them is as clear and simple as possible.

A referral timeframe of less than eight weeks would result in a deterioration of Ombudsman customer service levels as there would be many cases that the Ombudsman scheme would be unable to judge upon as they have not exhausted the suppliers' full processes. Therefore the Ombudsman would need to refer the customer back to the supplier.

Chapter Four

Question 7: Do you agree with the proposed criteria we will apply in approving redress schemes? Please explain the reasons for any changes that you suggest.

Ombudsmen schemes are not a new phenomenon and there is a wealth of quality information on what should be incorporated within an Ombudsman scheme, including from BIOA.

We welcome Ofgem's approach to setting the criteria based on principles as opposed to details. However although each industry may have common characteristics each redress scheme needs to meet the needs of different customers and sectors. This may mean that some elements of how this is implemented vary from sector to sector.

It is important that there is a clear and effective signposting arrangement in place for the customer to contact the Ombudsman. However, considering that the majority of queries and complaints are resolved within the first point of contact it would be time-consuming and unnecessary for customers to be signposted to the Ombudsman at the first point of contact with their supplier. So long as suppliers have effective signposting arrangements in place this should be sufficient to ensure customers are able to go to the Ombudsman at the appropriate time.

We fully support Ofgem's key characteristics of a successful redress scheme: independence, accessibility, effectiveness and public accountability. We believe that the ESO meets or exceeds all of these characteristics.

Question 8: Are there any other criteria you believe should be included? If so, please explain what they are and why.

No.

Question 9: Do you have any suggestions regarding changes to the wording of any of the criteria? Please explain why you propose these changes.

Please see question 7 above.

Question 10: Do you think that applications to become a redress scheme should strictly meet all individual criteria? If not, please explain which criteria and why.

To ensure clarity and consistency for customers, it is important that redress schemes have common criteria. Therefore all applications should strictly meet the identified criteria. There may be exceptional circumstances in some instances which should be taken case by case. This should be the exception, and not the norm and Ofgem should judge accordingly.

Question 11: Do you agree that we have correctly identified the criteria that could apply to domestic customers only? Please explain the reasons for any changes you suggest.

Yes

Question 12: Are there other criteria that are not needed for micro-business customers? If so, please explain what they are and why.

We cannot comment on this question.

Question 13: Do you believe that the criteria meet the generally accepted principles of best practice applicable to consumer redress schemes? If not, please explain why.

Yes.