



Department for
Business, Energy
& Industrial Strategy

CONSULTATION ON DATA SHARING REGULATIONS FOR A SAFEGUARD ENERGY TARIFF



February 2018

CONSULTATION ON DATA SHARING REGULATIONS FOR A SAFEGUARD ENERGY TARIFF

The consultation can be found on the BEIS section of GOV.UK:

<https://www.gov.uk/government/consultations/data-sharing-regulations-for-a-safeguard-energy-tariff>

Consultation on data sharing regulations for a safeguard energy tariff

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General information

Purpose of this consultation

We're looking for views on adding a safeguard energy tariff imposed by Ofgem (the regulator) for vulnerable consumers on standard variable and fixed-term default tariffs to the list of fuel poverty measures for which public authorities can share data with gas and electricity suppliers for the purpose of assisting households in fuel poverty.

Issued: 12 February 2018

Respond by: 26 February 2018

Territorial extent:

England, Wales and Scotland.

How to respond

Representations are welcomed from civil society, the private sector, public authorities, energy suppliers and consumer groups as well as professional bodies, interest groups and the wider public.

Your response will most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

Please send responses to: steven.may@beis.gov.uk

After the consultation

Responses to this follow-up consultation will be analysed and the draft regulation will be revised as necessary. The Government is continuing to analyse the other responses to the consultation carried out from 21 September to 2 November on the draft Digital Government (Disclosure of Information) Regulations 2017 and the draft codes of practice. The Government will respond in due course to that consultation and to this follow-up consultation and may make individual responses available. The regulations will then be laid, and Codes and statement of principles presented to, Parliament for approval.

Confidentiality and data protection

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information legislation (primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

If you want information that you provide to be treated as confidential please say so clearly in writing when you send your response to the consultation. It would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded by us as a confidentiality request.

We will summarise all responses and place this summary on the [GOV.UK website](#). This summary will include a list of names or organisations that responded but not people's personal names, addresses or other contact details.

Quality assurance

This consultation has been carried out in accordance with the [Government's Consultation Principles](#).

If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to:

Email: beis.bru@beis.gov.uk

Executive Summary

Part 5 of the Digital Economy Act 2017 (“the Act”) introduces new information sharing provisions to support the delivery of better public services. From 21 September to 2 November 2017 the Government consulted on draft codes of practice for use under the Act and on the draft Digital Government (Disclosure of Information) Regulations 2017. These draft regulations proposed specific objectives for which data can be shared under section 35 of the public service delivery provisions of the Act, and the specific public authorities which would be able to use these powers to share data. The proposed objectives included providing assistance to people living in fuel poverty to allow these public authorities to share information with each other for that purpose.

The Government is considering the responses to the consultation and will publish a response in due course. Some responses to the consultation, in commenting on the fuel poverty objective, asked to include Ofgem’s proposed safeguard tariff for low income and vulnerable consumers at risk of fuel poverty in the list of fuel poverty measures for which data sharing may take place with energy suppliers under section 36 of the Act.

Part 5 of the Act allows data sharing between specified public authorities and energy suppliers for the purpose of alleviating fuel poverty. The data sharing must be for use under one of the fuel poverty measures listed in section 36(3) of the Act. This list currently includes measures such as the Warm Home Discount and the Energy Company Obligation scheme. Other fuel poverty measures, such as a safeguard tariff proposed by Ofgem that assists vulnerable consumers at risk of fuel poverty, can be added to the list, following consultation and approval of regulations by Parliament.

On 7 December 2017 Ofgem announced its decision to put in place a safeguard tariff for customers in receipt of the Warm Home Discount and on standard variable and fixed term default tariffs. This safeguard tariff will be in place from 2 February 2018. On 20 December 2017, Ofgem published a consultation on extending the safeguard tariff to a wider range of vulnerable customers for winter 18/19, subject to suitable data sharing powers between DWP and energy suppliers being put in place. This approach would allow for vulnerable consumers at risk of fuel poverty, who are also disengaged from the retail energy market and on more expensive standard variable or fixed term default tariffs (tariffs that customers have not actively chosen), to receive protections automatically.

In light of the responses to the consultation on the draft Digital Government (Disclosure of Information) Regulations 2017 and Ofgem’s proposals for a safeguard tariff, the Government is issuing this follow-up consultation. The Government is seeking views on a draft regulation amending section 36(3) of the Digital Economy Act 2017 to allow the sharing of information between public authorities and energy suppliers for the provision of a safeguard tariff for vulnerable customers who are most at risk of fuel poverty.

Executive Summary

This consultation is specifically about adding the proposed safeguard tariff to the list of fuel poverty measures in section 36 (3) of the Act. As set out above, the details of the safeguard tariff itself are the subject of separate consultation by Ofgem.

Consultation questions

Consultation Question

1. Do you agree that a safeguard tariff imposed by Ofgem for vulnerable consumers on standard variable and fixed-term default tariffs should be added to the list of fuel poverty measures for which public authorities can share data with gas and electricity suppliers for the purpose of assisting households in fuel poverty?

2. Do you have any comments on the wording of the draft amendment?

Background

The Competition and Markets Authority, in its investigation into the energy market which published in June 2016, found that customers of the largest six energy companies were paying around £1.4bn a year than they would in a truly competitive market. Specifically it found that the Big Six energy companies have unilateral market power over disengaged customers who are on expensive standard variable tariffs. Vulnerable consumers, who are often at risk of being in fuel poverty, are more likely to be disengaged and on these expensive tariffs.

The Government has published, for pre-legislative scrutiny, the Draft Domestic Gas and Electricity (Tariff Cap) Bill to cap the amount suppliers can charge domestic customers for standard variable (SVT) and default tariffs. It intends to introduce the Bill into Parliament at the earliest opportunity following pre-legislative scrutiny. A safeguard tariff that caps the amount suppliers can charge customers on pre-payment meters is already in place, and on 7 December Ofgem published its decision to extend this to recipients of the Warm Home Discount on standard variable tariffs and fixed-term default tariffs. These protections will come into effect on 2 February 2018.

On 20 December 2017 Ofgem published a further consultation proposing to extend safeguard tariff protection to at least 2 million more vulnerable households on standard variable and fixed-term default tariffs by winter 2018/19. Subject to consultation, Ofgem would implement this by inserting a condition into suppliers' operating licences to limit the charges for electricity and gas for vulnerable consumers on standard variable and fixed-term default tariffs. In order for Ofgem to be able to implement a safeguard tariff by the winter of 18/19 in the most effective way we are consulting on adding a safeguard tariff to the list of fuel poverty schemes.

Identifying vulnerable consumers who are most at risk of fuel poverty

The effects of energy prices are felt most by those with the lowest disposable incomes, and particularly those who have the overlapping problem of high energy requirements, for whom spending on their essential energy needs already accounts for a disproportionately high share of their annual outgoings. Fuel poverty is identified in different ways in England, Scotland and Wales - but in each case, higher energy prices as a result of being disengaged will increase the number of people falling into fuel poverty.

The 2015 Fuel Poverty Strategy for England showed that direct energy bill support has a role as part of a cost-effective mix of measures to tackle the long-term, structural problem of fuel poverty. This is especially important while a significant proportion of our housing stock remains inefficient, and upgrading it takes time.

Energy suppliers generally hold limited personal information about their customers, including name, address, energy meter identification numbers and payment details. Without engagement from a consumer, identifying - with the necessary degree of consistency and efficiency – consumers who may be disengaged, vulnerable and at risk of being in fuel poverty can be challenging. These are the consumers Ofgem is seeking to target with safeguard tariff protection.

The Government's and Ofgem's preferred approach to identifying vulnerable consumers on standard variable or default tariffs, for a safeguard tariff is through data matching. It would allow for accurate, consistent and timely identification of disengaged vulnerable consumers that are in, or at risk of, fuel poverty.

An alternative approach would be for vulnerable customers to apply to suppliers for the safeguard tariff. We consider this would be less effective at delivering the desired outcome to provide assistance to vulnerable customers who are disengaged from the market, as standard variable tariff customers usually are. It is likely that many vulnerable disengaged customers would not apply.

In the absence of access to benefits data, an alternative option would be for suppliers to use other information they hold about their customers. This includes whether a consumer is in arrears with their energy bills or on the Priority Services Register (PSR¹), for example. Requiring suppliers to use information they hold about consumers would also build on the new Standards of Conduct obligation that requires domestic gas and electricity suppliers to seek to identify vulnerable consumers and treat them fairly. Although this approach might

¹ <https://www.ofgem.gov.uk/consumers/household-gas-and-electricity-guide/extrahelp-energy-services/priority-services-register-people-need>

cover some consumers who are on benefits, it would not guarantee the same level of consistency and accuracy in terms of identifying disengaged vulnerable consumers at risk of fuel poverty. Under data-matching, this type of consumer would receive safeguard protection automatically. Using supplier-held data would be a less accurate proxy that is less likely to capture the people who need it most.

The proposed approach would allow vulnerable consumers who are at risk of fuel poverty and on expensive standard variable and fixed-term default tariffs to be identified and to be automatically protected by a safeguard tariff without having to apply. Data matching would also help to ensure that eligible consumers would be identified and receive the same level of protection, using consistent eligibility criteria, across suppliers. Government currently uses means-tested benefits as a proxy for identifying households in, or at risk of, fuel poverty, for example under the Warm Home Discount and the Energy Company Obligation. Under the proposed approach for a safeguard tariff for vulnerable consumers, those public authorities listed in schedule 5 to the Digital Economy Act would be able to share eligibility flags (see next section) with energy suppliers to enable them to identify which of their customers are eligible for protection.

How would data matching for a safeguard tariff work?

The Government recognises that the appropriate protection of personal information is essential. Only appropriate bodies should have access to information – and energy suppliers should only have access to the minimum amount of information required to be able to apply the safeguard tariff.

Under Ofgem's consultation proposals for an extension to the safeguard tariff, the bodies that would be involved in the data matching process are the Department for Work and Pensions (DWP) and licensed gas and electricity suppliers. If a similar approach is adopted as with the current data matching for the Warm Home Discount, the energy supplier would provide DWP with customer details, such as name and address. DWP would match these customer details against its benefits data in order to inform the energy supplier which of their customers has been identified as eligible for the safeguard tariff. No detail about the benefits a customer receives would be shared, nor would the energy supplier be permitted to involve other third parties in this data-sharing process. This is similar to the process already used under current data sharing arrangements for the Warm Home Discount, where energy suppliers are informed by DWP whether their customer is identified as in receipt of state pension credit and so eligible for the core group rebate under the scheme. This is a successful scheme that has been operating since 2011 and demonstrates that this model works.

Suppliers would not be permitted to use the information they receive for any purpose other than those that are outlined in the Digital Economy Act. In addition to legislative controls and criminal penalties, a code of practice would be put in place alongside detailed contractual arrangements for the handling and protection of the data.

Draft amendment

Section 36(3) of the Digital Economy Act contains the list of fuel poverty measures. An illustrative draft of the wording of the regulations to add the safeguard tariff to this list of fuel poverty measures would be as follows:

In section 36(3) of the Digital Economy Act 2017, after paragraph (d) insert-

- e) *in the case of a disclosure to a licensed gas supplier, a restriction on relevant charges levied on domestic customers by the supplier which is imposed by the Gas and Electricity Markets Authority—*
 - (i) *in the exercise of its powers under section 23(1)(b) of the Gas Act 1986 (modification of conditions of licences), and*
 - (ii) *for purposes that include assisting people living in fuel poverty by reducing their energy costs, or*
- f) *in the case of a disclosure to a licensed electricity supplier, a restriction on relevant charges levied on domestic customers by the supplier which is imposed by the Gas and Electricity Markets Authority—*
 - (i) *in the exercise of its powers under section 11A(1)(b) of the Electricity Act 1989 (modification of conditions of licences), and*
 - (ii) *for purposes that include assisting people living in fuel poverty by reducing their energy costs.*

In section 36(11) of the Digital Economy Act 2017, at the appropriate place insert-

“domestic customer” means a customer supplied with gas or electricity wholly or mainly for domestic purposes;

“relevant charges” means—

- (a) *in relation to a licensed gas supplier, charges levied in respect of activities authorised by a licence held by the supplier under section 7A(1) of the Gas Act 1986;*
- (b) *in relation to a licensed electricity supplier, charges levied in respect of activities authorised by a licence held by the supplier under section 6(1)(d) of the Electricity Act 1989.*

