



Department
of Energy &
Climate Change

Smart Metering Implementation Programme

Government response to consultation on timing of
the review of the Data Access and Privacy
Framework

December 2015

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Any enquiries regarding this publication should be sent to us at smartmetering@decc.gsi.gov.uk.

General information

Purpose of this document:

This document sets out the Government's response to a consultation on the timing of the review of the Data Access and Privacy Framework. The Framework determines the levels of access to energy consumption data from smart meters that suppliers, network operators and third parties should have. It also establishes the purposes for which data can be collected and the choices available to consumers.

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Territorial extent:

This consultation and Government response applies to the gas and electricity markets in Great Britain. Responsibility for energy markets in Northern Ireland lies with the Northern Ireland Executive's Department of Enterprise, Trade and Investment.

Additional copies:

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Quality assurance:

This consultation was 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 were the subject of the consultation) please address them to:

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1. Background

Introduction to smart metering

- 1.1. The roll-out of smart meters by energy suppliers will play an important part in Britain's transition to a low-carbon economy. They will offer a range of intelligent functions and provide consumers with more accurate information, bringing an end to estimated billing.
- 1.2. Energy suppliers are required to take all reasonable steps to install smart meters in domestic and smaller non-domestic premises by the end of 2020. A standard smart metering installation will in most instances include gas and electricity smart meters, an In-Home Display (IHD) for domestic premises and a communications.
- 1.3. These devices will communicate with each other via a Home Area Network (HAN), as defined by the Smart Metering Equipment Technical Specifications (SMETS). This will allow consumers to see energy information on their In-home Display, but also allow them to link other smart devices to the HAN¹.

The Data Access and Privacy Framework

- 1.4. The Government has developed a Data Access and Privacy Framework (DAPF) for the roll-out of smart meters in order to:
 - protect consumers' interests, including by addressing concerns that consumers may have about privacy;
 - enable proportionate access to data by authorised parties to make sure that benefits can be delivered; and
 - promote competition and innovation in the developing energy services market.
- 1.5. The details of the DAPF were published in December 2012² and determine the levels of access that suppliers, network operators and third parties can have to energy consumption data from smart meters. It also establishes the purposes for which data can be collected and the choices that are available to consumers.
- 1.6. The core principle is that, other than when it is required for billing and regulated duties, consumers will have control over access to their energy consumption data.
- 1.7. Separate data access rules apply in the non-domestic sector, reflecting the different make-up of the market. Micro-businesses have a choice about whether their supplier can access consumption data more detailed than monthly.

¹ For more information about how data from smart meters is expected to transform the market for energy services see: <https://www.gov.uk/government/publications/smart-meters-smart-data-smart-growth>

² Information on the regulations governing access to data is available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/43046/7225-gov-resp-sm-data-access-privacy.pdf

2. Review of the Data Access and Privacy Framework

Commitment to conduct a review

- 2.1. When it published the DAPF, the Government made clear that it would monitor the Framework and review it at an appropriate point, no more than three years after its coming into force.
- 2.2. In order to conduct a comprehensive review of the DAPF it will be necessary to collect sufficient and robust evidence that will enable assessment of data access for: consumers; suppliers; network operators and third parties.
- 2.3. In addition, the review will consider data access in the non-domestic sector.
- 2.4. Since the main regulatory provisions first came into effect in June 2013, under the current timetable the review would need to be completed by June 2016.
- 2.5. The commitment to conduct a review was made at a time when it was expected that the Data and Communications Company (DCC) would start offering services towards the end of 2014.
- 2.6. The DCC is one of the main mechanisms for providing access to data and this timing would have provided evidence from 18 months of operation. With the DCC now expected to start offering live services in 2016³, it is the Government's view that concluding a review in the middle of that year would severely limit its scope and usefulness.

Proposed new timetable

- 2.7. In its March 2015 consultation⁴ the Government proposed that the review of the DAPF is concluded in 2018, to enable holistic assessment of the whole Framework.
- 2.8. It is expected that by mid-2017 significant numbers of smart meters will be enrolled into the DCC and it will be possible to assess the extent to which third parties are successfully using data to offer consumer services. We also expect that by this time network operators who wish to directly collect consumption data will have plans to aggregate or otherwise anonymise this data in place and approved by Ofgem.
- 2.9. Consultees were asked: "Do you agree that the full review of the smart metering Data Access and Privacy Framework should be concluded in 2018 rather than 2016? Please explain your rationale."

³ Written Ministerial Statement March 2015: <https://www.gov.uk/government/speeches/smart-meter-delivery-plan>

⁴ Available here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/413712/Consultation_on_review_of_Data_Access_and_Privacy_framework_final.pdf

3. Summary of Views

Overview

- 3.1. A total of 14 responses were received to this consultation from a range of stakeholders including energy suppliers, a trade association, a consumer group and a private individual. A list of those organisations responding is provided at Annex A.
- 3.2. Individual responses to the consultation will be published on the DECC website in due course, with the exception of those where confidentiality was requested.
- 3.3. The majority of respondents agreed with the proposal to conclude the review of the Framework in 2018. They recognised that a review completed in line with the original timetable would be severely limited in scope and utility.
- 3.4. Respondents who disagreed with the proposal stated that:
 - a sufficient volume of smart meters will have been installed by 2016 to provide enough evidence for a review to be conducted;
 - deferring the review could undermine the delivery of the benefits of smart metering.

Delivering an evidence-based review

- 3.5. The majority of respondents stated that a review conducted in 2016 would be based on limited practical experience operating under the Framework and risked being constrained in its scope.

Roll-out experience

- 3.6. Whilst increasing numbers of smart meters are being rolled-out by energy suppliers, several respondents noted that a sufficient number will not have been installed by 2016 to test the effectiveness of the Framework⁵. They argued that without industry and consumer experience of the DAPF, any review would not be of sufficient depth and detail.
- 3.7. Furthermore, one respondent cautioned that the experiences of those receiving a smart meter during the Foundation Stage⁶ may not be representative of either the general population or the main roll-out.

⁵ Latest available figures show that an estimated 1.7 million smart meters are operating in smart mode (up to 30 June 2015) in domestic and non-domestic premises. Source: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/459467/Smart_Meters_Quarterly_Statistics_Report_Q2_2015.pdf

⁶ The Foundation Stage began in March 2011 and covers the period ahead of the main roll-out, which will commence from DCC Live in 2016.

- 3.8. These arguments were in contrast to the views of a minority of respondents who indicated that a sufficient number of meters will have been installed by 2016 to enable an effective review to be conducted.

Holistic assessment

- 3.9. In 2012, the Government committed to reviewing all aspects of the DAPF including: access to data by consumers, suppliers, network operators and third parties. However, it will not be until after the DCC starts offering live services in 2016 that third parties and network operators will begin using its services to access data, either with consent or following approval of plans to anonymise data.
- 3.10. Several respondents therefore highlighted that a review conducted in 2016 would be concluded before these groups have had an opportunity to implement their processes, collect data and evaluate their systems.
- 3.11. One respondent additionally noted that a review conducted in 2018 would benefit from knowledge and developments in other areas. This will include Ofgem's review of the Priority Services Register and the development of EU data protection legislation.

Impact of the proposed timetable

- 3.12. Several respondents expressed concern that a review concluding in 2018 may be unlikely to deliver any changes to the DAPF before the end of that year. They felt that this may prevent those who had already had a smart meter installed from benefiting from any amendments.
- 3.13. Additionally, it was suggested by several respondents that if matters relating to privacy are not addressed until the main roll-out of smart meters is underway this could present a risk to consumer protection and confidence. One respondent sought clarity on how consumers will be able to see who is accessing their data and the penalties that would apply to DCC users who accessed consumption data without consent.
- 3.14. A minority of respondents felt that specific provisions within the current Framework are overly stringent, preventing them from delivering certain benefits to their consumers. They felt that the review of the DAPF should be completed in 2016, in order to address these perceived constraints:
- One respondent claimed that the existing provisions controlling the use of consumption data for marketing purposes are too onerous, preventing customers being given information on relevant products and services.
 - One respondent raised concerns that the requirement for consumers to give their explicit consent for the collection of half hourly data is overly cautious. They argued that greater levels of access to this data could bring benefits for consumers in the form of cost savings, innovation and tailored guidance.
 - A few respondents suggested that the requirement to provide written notice of data choices to consumers is excessive, potentially confusing and duplicates processes. They argued that an improved customer experience could be achieved through the use of call recording and noted that in other areas this is considered a valid mechanism for securing consent.

4. Government Response

- 4.1. The DAPF introduced strong safeguards to protect consumers and give them control over who could access their consumption data and for what purposes, except where it is required for regulated duties. Crucially, the Framework was designed to ensure consumers have confidence in the security of their data, ahead of the majority of customers receiving a smart meter.
- 4.2. It was recognised that as technologies evolve and consumers gain confidence in their smart metering system, the Framework may need to be updated to enable further benefits to be realised. As more smart meters are installed in homes and businesses, so experience with the provisions of the DAPF will increase, enabling any issues to be identified and investigated.
- 4.3. In reaching a decision about the timeframe for the review it was necessary to ensure that it could be based on robust evidence. Importantly, it must also be concluded in sufficient time for changes to be delivered during the roll-out period.

Timing of the review

- 4.4. A minority of respondents to the consultation suggested that a sufficient number of meters will have been installed to enable a review to be completed in 2016. We have given consideration to these arguments but do not believe that it would be appropriate to determine the timing of the review solely on the basis of the total number of meters installed. To be effective, the evidence collected for the review needs to be as representative as possible of both industry and consumer experience.
- 4.5. The roll-out and installation of smart meters across Great Britain is supplier-led and energy suppliers are free to plan their own installation strategy. During the Foundation Stage some energy suppliers are choosing to install smart meters, in order to learn from the installation process and give their customers early access to the benefits of smart metering. Other energy suppliers are planning to begin installations at a later date. Additionally, as suppliers continue to test and refine their systems they may not immediately roll-out meters to particular groups, such as those with pre-payment meters or individuals on the Priority Services Register. Deferring the review will therefore enable a more representative assessment of roll-out experiences.
- 4.6. Deferring the review will also enable consideration of network operators' access to data and provide an opportunity to consider data access by third parties, via the DCC.
- 4.7. As supported by the majority of consultation respondents, the Government confirms that the DAPF review will be concluded in 2018. This will enable a more holistic assessment of the extent to which the Framework's provisions and safeguards are appropriate, whilst avoiding any premature or disproportionate changes to its provisions.
- 4.8. Any modifications to the DAPF will be introduced in a timely manner, following consultation. As mentioned by several respondents, careful consideration will be given as to whether any amendments should be applied retrospectively.

- 4.9. Responses to the consultation also highlighted that some concerns currently exist regarding specific aspects of the Framework. The Government is committed to continually monitoring the Framework and in response to these comments the following section outlines how evidence cases can be submitted for consideration.

Continual monitoring

- 4.10. The Government is committed to continually monitoring use of the DAPF.
- 4.11. The Government is working with Ofgem to consider half-hourly settlement of domestic and smaller non-domestic consumers and will explore how this work interacts with the provisions of the DAPF, as part of our ongoing monitoring activity. It may be necessary to propose amendments to the current Framework to ensure that the benefits of settlement reform are delivered, whilst maintaining appropriate privacy safeguards.
- 4.12. The current DAPF places the onus on suppliers to persuade their customers of the benefits that can be derived from greater levels of data sharing and provide incentives in return for access to their customers' most granular data.
- 4.13. Notwithstanding this, several respondents to this consultation identified areas of the Framework that they believe represent a barrier to the realisation of the benefits of smart metering. However, the information provided in these responses did not include clear evidence to support these assertions or demonstrate that it was not possible to overcome them with more effective customer engagement strategies.
- 4.14. We would therefore encourage those respondents who consider that there is a strong case for specific provisions of the DAPF to be changed in the short term to prepare more detailed evidence cases including:
- Description of issue identified
 - What parties are impacted and how
 - Nature and scale of benefits forgone or extra cost incurred under current arrangement
 - Options to mitigate any associated reduction in privacy safeguards
 - Proposed lever to bring about change (including consideration of other options and reasons for rejection)
- 4.15. These should be submitted to Victoria Mason, the Programme's Consumer Protection Manager (victoria.mason@decc.gsi.gov.uk).
- 4.16. In examining submissions, DECC will need to ensure that an appropriate balance is retained between consumer protection and commercial interest. DECC will consult on any proposed changes to the Framework.

Annex A: List of organisations responding to consultation

Respondent	
1.	British Gas
2.	Citizens Advice
3.	EDF Energy
4.	Electricity North West
5.	Energy UK
6.	EON
7.	Haven Power
8.	OVO Energy
9.	RWE npower
10.	ScottishPower
11.	Spark Energy
12.	SSE
13.	UK Power Networks

