

Citizens Advice response to Ofgem's call for input on a Future Regulation Sandbox

A Citizens Advice
consultation response



About us

We can all face problems that seem complicated or intimidating. At Citizens Advice we believe no one should have to face these problems without good quality, independent advice. We give people the knowledge and the confidence they need to find their way forward - whoever they are, and whatever their problem.

We provide support in approximately 2,500 locations across England and Wales with over 18,000 volunteers and 8,650 staff.

Through our advocacy work we aim to improve the policies and practices that affect people's lives. No one else sees so many people with so many different kinds of problems, and that gives us a unique insight into the challenges people are facing today.

As the statutory consumer watchdog for the energy and post industries we have an important role to play in shining a spotlight on the problems consumers encounter, providing solutions to these problems and ensuring their voices are heard when important decisions are made about the future of these essential markets.

Introduction

Citizens Advice welcomes the opportunity to respond to Ofgem's consultation on the Proposal to introduce the Future Regulation Sandbox. In principle, Citizens Advice are supportive of this proposal. We address the specific questions below.

In principle we support Ofgem's proposal, and see a regulatory sandbox as an opportunity to test innovative ideas in a controlled way, while understanding the potential impact on consumers. One of the main challenges for energy consumers, now and in the future, will be the transition to a low-carbon and digital energy system. Without support, there is a particular risk that energy consumers in vulnerable circumstances will lose out in a future energy market.

There is a risk that consumers in vulnerable circumstances or those who have a higher cost to serve are excluded from trials. Given that these groups are already at a greater risk of losing out in a future energy market, designing trials

that exclude these groups risks creating regulatory structures that exacerbate this. We urge Ofgem to keep this in mind as they design the Future Regulation Sandbox.

Q1. Do you agree with the problem we've identified in the potential for friction in the relationship between innovation and regulation? Do you have examples of where this friction arises and its consequences?

Citizens Advice agree that in certain circumstances there is the potential for friction between innovation and regulation. That said, energy regulation is critical to protecting consumers in the delivery of an essential service. A regulatory sandbox provides the opportunity to test innovative ideas in a controlled way, while testing the potential impact on energy consumers. Therefore, particular care and attention should be paid to evidence of the potential adverse impact of innovations to consumers, and the regulatory frameworks which will need to be developed in order to mitigate these. We discuss this in more detail in later sections.

Q2. What are your views on the fundamental idea of using trials of innovations and regulation to inform decisions about rule changes, particularly our proposal for these trials to be regulator-led rather than innovator-led?

We support the principle of testing to inform regulatory change, and support Ofgem doing so. As discussed previously, we are supportive of a regulator or policy-led sandbox, especially where there is a gap that is not currently addressed by a demand-led approach. One of the main challenges for energy consumers, now and in the future, will be the transition to a low-carbon and digital energy system. Without support, there is a particular risk that energy consumers in vulnerable circumstances will lose out in a future energy market. Therefore, we see value in an approach that gives greater attention to particular strategic challenges for disadvantaged consumer groups.

While we support the use of trials of innovations and regulation to inform decisions, it should also be noted that regulatory change can already be slow. Changes to facilitate net zero, in particular, will require rapid changes. Trials could also be outpaced by changes in the external context. An example of this is

Ofgem's opt-in prompt trials which showed promising results, but ultimately did not lead to change due to subsequent retail market collapse.

Therefore trials should be focused where they are necessary to get the right answer, and not used to avoid hard decisions which need to be addressed more urgently. Where trials are used this should ideally be implemented in a way that minimises an additional way (alongside policy development, for example).

As discussed later in our response, the fact that there is no funding relating to the trials is likely to limit the uptake of certain types of trial. In particular this is true of cases where there isn't a clear commercial benefit to innovators. This is likely to be a barrier to trials which focus on inclusive systems, and groups of consumers that have a higher cost to serve.

Q3. Do you have any other ideas for what types of trials could be run in an FRS? Please note Questions Q21–Q26 focus on the actual issues that FRS trials could address.

[Not answered]

Q4. What should we consider as we design the processes that would deliver the FRS? Are there any learnings we can take from our existing Energy Regulation Sandbox, or the derogation frameworks of the BSC, DCUSA, REC and UNC, or other similar programmes?

[Not answered]

Q5. In relation to stage 1: How should we gather ideas for FRS topics from across the sector on an ongoing basis?

[Not answered]

Q6. In relation to stage 2: How should we prioritise the ideas that are brought forward?

As a future regulation sandbox, ideas should be prioritised which might not be possible due to the current regulatory environment. This will help Ofgem to identify barriers which can be addressed to facilitate innovation going forward.

Another purpose of the sandbox should be to consider new ideas which the market would not naturally adopt. One natural area would be to prioritise projects which focus on particular consumers: people in vulnerable circumstances or at risk of fuel poverty. For example, emerging opportunities to identify those struggling to pay their bills, particularly through self-disconnection data, could be a useful addition to the well developed modelling and identification approaches in the fuel poverty arena.

However, the potential for the adoption of trials focussing on people in vulnerable circumstances and fuel poverty will be limited, due to the fact that there is no funding attached to the FRS. If future funding becomes available from the government or other funders in the future, we would encourage Ofgem to make this a particular focus of trials. Ofgem could also explore whether powers are needed to direct participation in trials. This has been the case in the past, although the relevant licence conditions have now lapsed.

Q9. In relation to stage 5a: What are your views on the possible designs of Sandbox environments? What else should be part of Sandbox environments to ensure we maximise consumer protection, and our learning about innovation and potential rule changes? In particular, do you have any views on our suggestion that the FRS environment may change over the course of a given trial?

Ensuring consumers are protected should be a central pillar when designing the sandbox environments. While learning about potential innovation and rule changes are important, this should not come at the detriment of participants, and clear red lines should be put in place to protect consumers.

One purpose of sandbox projects will be to identify unexpected adverse consequences for energy consumers. Therefore, while consistency and an environment that allows accurate data collection is important, safeguards should be put in place to adjust conditions where consumer harm is identified.

The nature of certain trials will inevitably lead to potentially greater harm for participants, and should be considered on a case-by-case basis. That said, we expect certain trials to carry greater risks than others. In particular, direct involvement trials - involving products or services in people's homes- would be expected to involve greater risks than trials at a network level. As much as possible, Ofgem should seek to apply learnings from trials in the existing regulatory sandbox to inform rules and guidance on trial design.

The same rules that govern the existing energy regulation sandbox should apply for the regulation sandbox, and where appropriate these should be strengthened and extended. This should include regular reporting to Ofgem, and customer satisfaction surveys (which should be reported) where relevant.

Q10. In relation to stage 5a: What monitoring and data/information sharing requirements should be in place for participating innovators to ensure we gather the right information to inform regulatory decision-making, and ensure that the wider sector benefits from the trial findings?

We urge Ofgem to follow its own guidance on data best practice, to make sure that data and insights gleaned from all trials can be utilised by market participants, particularly in the pursuit of net zero and in the interests of energy consumers.¹

Where possible, a standardised approach to all trials and to data collection will help to ensure that lessons from the trials are captured effectively to ensure that they can inform effective regulatory decision-making. That said, while consistency is important, this should not come at the expense of consumer protection. Where potential consumer harm is identified, particularly where consumers in vulnerable circumstances are concerned, additional care should be taken to adjust data sharing collection and sharing safeguards. Approaches should be adjusted if consumer harm is identified during the trial.

Q11. In relation to stage 5b: How should we ensure that market participants and stakeholders not taking part in the FRS trials themselves

¹Ofgem (2023) [Decision on updates to Data Best Practice Guidance and Digitalisation Strategy and Action Plan Guidance](#)

have sufficient voice in the design of the FRS and any rule changes which are proposed following a trial?

Rule changes which flow from FRS trials have the potential to influence participants across the market, alongside large numbers of energy consumers. While it is important to ensure that all market participants have the opportunity to have a voice in the design of the FRS, we urge Ofgem to also give organisations representing consumers a significant voice as well.

Any opportunity for organisations to feed into the process should be made with sufficient time and clarity to allow them to do so. Any decisions made should also be communicated with all stakeholders, with transparency over the decision-making process.

Q12. In relation to stage 6: What should we consider when thinking about transition arrangements after a trial has come to an end, and before making decisions about permanent rule changes?

While it is important to make timely decisions and maintain momentum after a decision is made, we also urge Ofgem to proceed carefully before making any permanent regulatory decisions which affect energy consumers. Trials have the potential to effectively test and address regulatory blockers which can be removed to ensure innovation that progresses net zero and benefits consumers. However, Ofgem should keep in mind that trial environments do not entirely reflect real-life conditions, and the potential for unforeseen consequences remains. Pace should not come at the expense of proper consultation with wider stakeholders. We think the decision to make a firm commitment should be made after the end of any trial.

Q13. In relation to stage 6: Recognising that we cannot promise a particular outcome, how should we communicate our thinking and intentions around implementing rule changes after an FRS trial?

As discussed above, any opportunity for organisations to feed into the process should be made with sufficient time and clarity to allow them to do so. Any decisions made should also be communicated with all stakeholders, with transparency over the decision-making process.

Q14. If you are an innovator, based on what's been set out, would you consider taking part in the FRS? Please explain why yes or no. If you're unsure, what further information would you need?

[Not answered]

Q15. Do you agree with the benefits that we think participants get from taking part in an FRS trial? Do you see other benefits we haven't mentioned?

See answer to question 19.

Q16. Do you have any views on the regulation that we consider to be in scope for the FRS, in particular whether the scope is sufficient to tackle key frictions between innovation and the energy system rule book? (see Box 4 on page 26 for an overview of the rules in scope)

We broadly agree with the regulation that is considered to be in Ofgem's scope for the FRS. However, in order to develop a joined-up strategy that delivers effective results, we urge Ofgem to work closely with government and particularly DEZNEZ when developing any changes.

Q17. What should we consider when thinking about enabling innovators/innovations to take part in the FRS that are funded through other programmes and funds? What would good alignment with these programmes look like to make participation easier?

As discussed earlier in our response, the potential for the adoption of trials focussing on people in vulnerable circumstances and fuel poverty will be limited, due to the fact that there is no funding attached to the FRS. If future funding becomes available from the government or other funders in the future, we would encourage Ofgem to work with funders closely to facilitate these types of projects where possible.

Q18. How can we ensure a diverse range of market actors can participate in an FRS trial? What, if any, support would be useful to enable

non-licensed entities/ those not party to an industry code forming partnerships with those licensed/ party to a code?

While in principle we support the goal of including a diverse range of actors in FRS trials, including non-licensed entities, they should follow the same rules and best practice as licensed actors.

Q19. Do you agree with the benefits we've identified here and elsewhere in the call for input? Do you see any additional benefits of the FRS proposal to consumers, innovators, Ofgem or the sector as a whole?

The call for evidence captures the main potential benefits involved in the FRS trials. Well designed trials can offer the ability to test regulatory ideas and assess the impact of certain changes on consumers. However, this will depend on the types of ideas Ofgem decides to prioritise. We therefore encourage Ofgem to prioritise ideas which focus on positive consumer outcomes, and to link this up with supportive funding where possible.

Q20. Do you have comments on the risks we've identified and how we're proposing to mitigate them? Do you think there are additional risks or mitigations we should consider?

It is correct that the risk that consumers may be disadvantaged or somehow negatively affected by trials is front of mind. Certain trials will carry greater risks than others. In particular, direct involvement trials - involving products or services in people's homes- would be expected to involve greater risks than trials at a network level. As much as possible, Ofgem should seek to apply learnings from trials in the existing regulatory sandbox to inform rules and guidance on trial design.

Although steps can be taken to minimise consumer harm from the outset, Ofgem should expect there to be unintended consequences. Therefore safeguards should be put in place to adjust conditions where consumer harm is identified.

Another risk is that consumers in vulnerable circumstances or those who have a higher cost to serve are excluded from trials, a risk which is heightened by the

fact that the sandbox is not connected to funding. Given that these groups are already at a greater risk of losing out in a future energy market, designing trials that exclude these groups risks creating regulatory structures that exacerbate this. We encourage Ofgem to consider linking the FRS to funding that enables trials aimed at these groups.

Q21. What innovations and market trends are challenging the current state of the energy sector rulebook (particularly rules in Ofgem’s and Code Administrators’ remit)?

As the UK transitions towards a net zero energy system, there are a number of energy trends and challenges that Ofgem will need to consider. These include: an increased need for demand flexibility driven by increased renewable and intermittent sources of energy, energy and heat as a service, and the use of data and digital technologies to improve energy efficiency in people’s homes.

Enabling these changes in an inclusive way that considers the needs of all energy consumers will be essential to achieving net zero. Citizens Advice, ADE and EUK have done some work to map out the gaps to demand-side response in our DSR risk register.² You can read more about the consumer protections that will be needed to protect consumers through the transition on our website.³

Q22. Which rules, or areas of the rulebook, need modifying to enable or respond to a particular innovation or trend? Why do you think they need evolving? Do you have ideas for how they should change?

[See our answer to question 21]

Q23. What are the challenges in the energy sector that may benefit from us putting out an open innovation challenge to convene innovators and solutions around a problem (see example 1 in Box 1, page 13)?

[Not answered]

² Citizens Advice (2022) [Demanding attention: A risk register for domestic demand-side response](#)

³ Citizens Advice (2024) [Net Zero Consumer Protections](#)

Q24. Are there particular innovative solutions that could be enabled and tested through an innovation trial (see example 2 in Box 1)

[Not answered]

Q25. Are there options for how Ofgem or Code Administrators could change their rules that would benefit from being tested through a regulation trial (see example 3 in Box 1)?

As discussed above, there are numerous potential ways that rule changes could be made to benefit consumers as we transition towards a net zero energy system. We advocate for Ofgem to prioritise their areas of focus strategically to focus on projects with the greatest potential benefit to consumers, and to focus on inclusive design that ensures accessibility and good outcomes for all.

Q26. There are activities and actors in the energy market that are not regulated by Ofgem but may be in the future. Do you think the FRS could be used to trial future regulatory regimes? Do you think unregulated entities would be interested in taking part in an FRS that trials potential future rules?

As discussed in our answer to question 18, we support the goal of including a diverse range of actors in FRS trials, including non-licensed entities. They should follow the same rules and best practice as licensed actors.

Please feel free to contact us if you have any questions about this consultation response.

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We provide free, confidential and independent advice to help people overcome their problems. We are a voice for our clients and consumers on the issues that matter to them.

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Published March 2024

Citizens Advice is an operating name of The National Association of Citizens Advice Bureaux.

Registered charity number 279057.