

# Consultation on proposals for a load control licence

Citizens Advice response



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advice**

Citizens Advice  
June 2024

# Introduction

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## Citizens Advice

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.

## Summary of our response

We remain supportive of the proposed introduction of a load control licence. The proposed content of the licence should help close the significant protection gaps outlined in our risk register for domestic DSR, jointly published with Energy UK and ADE.<sup>1</sup>

There are 3 key themes running through our response. The licensing regime should:

- **Offer a high standard of consumer protection** that is proportionate and adaptable to the risk of potential detriment in different parts of the load control market. Expanding statutory advice and advocacy provision and appointing an Ombudsman as the single common ADR provider for

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<sup>1</sup> Citizens Advice (2021) [Demanding attention: Managing risks with demand-side response. to improve consumer experience tomorrow](#)

the sector will be integral to this. The government could be more ambitious about building inclusivity and accessibility into the sector.

- **Minimise unnecessary burden** for an industry that is nascent and innovating quickly, by building on existing frameworks such as the energy supply licence where relevant.
- **Future-proof the market**, by considering the expected trajectory of the market and designing with that in mind, while remaining conscious of the need to learn and adapt as the market develops. We think the regulatory framework should be technology-agnostic, in order to create a more stable and supportive environment for innovation and build consumer confidence.

We would like to see **more consideration of the private rented sector**. In 'Room for Reform', we set out the need to future-proof protections for renters.<sup>2</sup> Tenants should be able to control their energy services and benefit from DSR if they wish.

More broadly, we think **an upgrade of retail regulation based on the FCA's new Consumer Duty** could deliver higher service standards and protections in the future. We think the government should further explore and move towards this approach across energy sector regulation.

If you would like to discuss any part of our response further, please contact Rachel Mills at [rachel.mills@citizensadvice.org.uk](mailto:rachel.mills@citizensadvice.org.uk)

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<sup>2</sup> Citizens Advice (2022) [Room for Reform: Embedding fair outcomes for tenants in tomorrow's retail energy market](#)

# Our response

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## Activities requiring a load control licence

- 1. Do you agree that activities of DSRSPs should require a load control licence? Please explain your answer.**
- 2. Do you agree that activities of DSR Load Controllers should require a load control licence? Please explain your answer.**
- 3. Do you agree that activities of Large Load Controllers should require a load control licence? Please explain your answer.**

Our answer covers questions 1, 2 and 3.

We agree that DSRSPs, DSR Load Controllers and Large Load Controllers should all require a load control licence as they all play roles in providing load control to customers.

We agree that DSRSPs will tend to be the most appropriate organisation to hold accountable for consumer protection requirements as they will be more likely to have operations geared towards providing consumer-facing services.

In addition, however, we think DSR Load Controllers and Large Load Controllers should be required to have referral arrangements in place to effectively help resolve a customer's problem or query by transferring them to the organisation with the power to resolve it (often this will be the DSRSP). A poor outcome would be if customers are left in limbo with unresolved problems or queries because they didn't know to contact their DSRSP as opposed to the DSR Load Controller or Large Load Controller. Our research identified that a key concern people have is not knowing how to fix issues with their smart product or service.<sup>3</sup>

It should be the responsibility of all parties to facilitate a good consumer journey by transferring the customer to the party able to resolve their problem or query. This will require a clear and robust process for determining responsibility for issues to ensure that consumer issues can't "fall between" accountable parties. This was echoed in our interviews with industry participants; there was

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<sup>3</sup> Citizens Advice (2023) [A flexible future: extending the benefits of energy flexibility to more people](#)

consensus that widening participation should extend beyond design considerations and include supporting consumers to deal with any problems they may experience.<sup>4</sup>

**4. Do you think there should be any further activities that should require a load control licence? Please explain your answer, and expand on any further activities where relevant.**

We think the activities currently covered are sufficient.

**5. Do you agree with government's proposal to limit the scope of the licence to certain ESAs for each activity proposed in this chapter? Please explain your answer.**

We disagree. We don't think the rationale provided for limiting the scope of the licence to certain ESAs is strong enough and we think there is value in basing the scope solely on the type of activity.

A licence based on type of activity should be more future-proofed as the market develops and new types of product and service emerge. Setting out a clear regulatory framework that is agnostic to whatever products and services may emerge in the future should create a more stable and supportive environment for innovators.

It is expected that technology will move quickly in this sector, with the introduction of Market-Wide Half-Hourly Settlement rapidly leading to new use cases and accelerating adoption rates. Basing the scope of the licence on type of activity is an opportunity to ensure regulation doesn't lag behind market development and stifle future innovation due to lack of regulatory clarity.

A negative outcome would be enabling protection gaps to emerge for certain types of appliances, or holding back their development in the first place because of an unclear future regulatory landscape. For example, innovators may be less confident about developing smart white goods due to concerns about regulations on these being introduced later down the line. When appliances such as smart fridges and washing machines emerge in the market, it is likely that they will provide the same sort of load control activities as other smart

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<sup>4</sup> Collaborate Research (2023) [Barriers to changing energy usage behaviour to participate in domestic energy flexibility](#)

appliances and carry similar risks, therefore consumers will benefit from the same sort of protections.

**6. Do you agree with government’s proposal to limit the scope of some of the activities in the licence (consumer contracting for load control and load control below 300MW) to load control for the purposes of DSR? Please explain your answer.**

We agree. It is helpful to clarify that the scope of the licence is limited to load control for the purposes of DSR. Enabling consumer confidence in DSR is the main driver for this licence and the scope should reflect this.

**7. Do you agree with Government’s proposal for protections around DSR in this licence to cover small non-domestic consumers? Please explain your answer.**

We agree with the proposed definition of small non-domestic customers. In energy retail we supported the introduction of the new threshold for businesses accessing the Energy Ombudsman, as well as statutory advice and advocacy through Citizens Advice, the Consumer Service and the Extra Help Unit.<sup>5</sup> We agree that small non-domestic consumers are less likely to have the staff, resources or time to deal with problems with their load control service or deal with dispute resolution through courts.

We agree that protections for small non-domestic customers should largely mirror those proposed for domestic consumers, though we would urge the government to include measures for consumers in vulnerable circumstances.

There is often a lot of similarity between domestic and small non-domestic customers, in terms of their needs and the risks they face when protections are not in place. Ofgem research has shown that some microbusiness energy consumers assume that they receive the same protections as domestic consumers.<sup>6</sup> The same research showed low levels of proactive engagement on behalf of suppliers and consumers and low levels of trust.<sup>7</sup>

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<sup>5</sup> Citizens Advice (2024) [DESNZ Consultation Response: a new threshold for businesses accessing the Energy Ombudsman](#)

<sup>6</sup> Ofgem (2023) [The impact of COVID-19 on microbusinesses: longitudinal research](#)

<sup>7</sup> Ibid

There are over 880,000 domestic customers on non-domestic contracts and it is well established that they struggle to access support when they need it. 4 in 5 of all those eligible for the Energy Bills Support Scheme Alternative Fund missed out, including over 250,000 care home residents.<sup>8</sup> Our research shows that many microbusiness consumers are disengaged, with limited communication with their energy supplier.<sup>9</sup>

By including small non-domestic customers in the scope of measures for consumers in vulnerable circumstances, the protection framework can be there for domestic customers on non-domestic contracts, whilst remaining unused by the consumers to which it doesn't apply.

## 8.

Not answered

## **9. Do you agree with Government's proposal for licensees to only be responsible for compliance with particular conditions in the licence related to the activity or activities they carry out? Please explain your answer.**

We agree with the government's preferred approach to splitting responsibilities so that companies are only subject to requirements directly relevant to their activity.

We also agree that Ofgem should have the ability to take compliance action against a DSRSP where it fails to meet its obligations due to the actions of a Load Controller. It should be up to the responsible party to ensure arrangements are in place with other parties that enable them to meet their obligations.

We have seen evidence of people's problems left unresolved and their energy supplier reluctant to take ownership, where the problem is the fault of a Third Party Intermediary.<sup>10</sup>

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<sup>8</sup> Age UK (2023) [4 in 5 of all those eligible for the Energy Bills Support Scheme Alternative Fund missing out](#)

<sup>9</sup> Citizens Advice (2020) [Getting through to business: Communicating with microbusiness energy consumers more effectively](#)

<sup>10</sup> Citizens Advice (2020) [Stuck in the Middle: How to improve protections for people using energy third party intermediaries](#)

## Assuring the cyber security of Load Controllers

### **10. Do you agree with the four assurance principles? If not, please explain your answer.**

Yes, we agree with the four assurance principles. In particular, we welcome the emphasis on security requirements that are tiered and proportionate to the size of load control and arrangements for transition between tiers that support smaller Load Controllers when they increase their portfolio.

In addition, it's important that the approach to compliance and enforcement is proactive. Companies should be required to demonstrate compliance from the outset, rather than relying on post-hoc audits that may reveal non-compliance later down the line.

### **11. Do you agree that two tailored CAF profiles, one for DSR Load Controllers and a separate profile for Large Load Controllers, is the right approach to organisational assurance for assessing licensed Load Controllers? Please explain your answer.**

We are not in a position of technical expertise to comment on whether the CAF is sufficient to deliver good cyber security outcomes for consumers.

We would like to see evidence that the government makes a balanced assessment here to arrive at its final decision, using insight from credible external experts (for example from academia) as well as industry.

To confirm, we support security requirements that are tiered and proportionate to the size of load control. Arrangements for transition between tiers should focus on supporting smaller Load Controllers to prepare for when they increase their portfolio. In the energy supply market, we saw too many instances of non-compliance from companies when new requirements came into effect as their customer base grew, and too much of a reactive approach to compliance from Ofgem.<sup>11</sup>

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<sup>11</sup> Citizens Advice (2021) [Market Meltdown: How regulatory failures landed us with a multi-billion pound bill](#)



## Consumer protection

### **12. Do you agree with requiring DSRSPs through the load control licence to meet a general condition to treat consumers fairly? Please give reasons for your answer and, where relevant, include reference to alternative or additional options.**

We agree that a general condition to treat consumers fairly is appropriate and practical as a first step. Given their increasingly customer-facing role in the energy market, DSRSPs should be held to high standards in terms of how they treat consumers.

However, we think that the existing requirement for energy suppliers to treat customers fairly hasn't done enough to drive sufficient culture change to improve outcomes in the energy retail market. In 'Raising the bar', we set out how an upgrade of retail regulation based on the FCA's new Consumer Duty could deliver higher service standards and protections in the future.<sup>12</sup> We think the government should implement this approach across both energy retail and load control regulations.

A Consumer Duty would place more onus on outcomes rather than actions. Organisations must proactively monitor consumer outcomes and ensure products meet consumer needs. This approach will be especially relevant for load control products and services, which are likely to be more complex than what consumers are accustomed to. As things stand, the onus is on regulators to carry out investigations to determine whether actions taken by an organisation are leading to positive outcomes.

A particularly important aspect of the FCA Consumer Duty is the requirement for organisations to improve and use their understanding on behavioural biases to proactively avoid foreseeable harm (and not capitalising on biases for financial gain). Given that DSRSPs are likely to have access to a wealth of data on households and their usage patterns, we expect them to have more potential to use this data for good, to support customers to understand their usage and recommend appropriate products and services for them. A Consumer Duty approach could ensure all DSRSPs do this well.

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<sup>12</sup> Citizens Advice (2022) [Raising the bar: How a new Consumer Duty could improve standards in the retail energy market](#)

Since we published 'Raising the bar', there has been interest in the idea.



"Fast changing, innovative industries can benefit from outcome-based regulation, which focuses on the overarching end goals that companies and customers would like to see achieved in order to guide the actions that need to be taken."



- Nesta (2024)<sup>13</sup>



"Although it applies to financial services, the Duty has lessons for firms in other sectors in terms of ensuring that their customers' outcomes are good"



- Frontier Economics (2023)<sup>14</sup>

**13. Do you agree with the proposal to use Standards of Conduct within a general consumer protection principle of fairness to impose requirements for communications about products and services? Please give reasons for your answer and, where relevant, include reference to alternative or additional options.**

We agree. Clear communication about products and services is essential for making them accessible to a range of consumers. We know from our research that disabled people, neurodivergent people and those with additional literacy needs that lack of access to information provided with their needs in mind can feel like a key barrier to uptake of smart products and services.<sup>15</sup> Requiring companies to use communication to include and create positive experiences for a range of households is an essential step towards achieving the fair net zero transition that the government rightly strives for.

We would appreciate further clarity about whether the proposal is that the full Standards of Conduct (under SLC 0.3) would apply to DSRSPs, or only the

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<sup>13</sup> Nesta (2024) [Future of energy retail: how could the electricity retail market be designed to better support net zero delivery?](#)

<sup>14</sup> Nesta (2024) [Future of energy retail: how could the electricity retail market be designed to better support net zero delivery?](#)

<sup>15</sup> Citizens Advice (2023) [A flexible future: extending the benefits of energy flexibility to more people](#)

communications principle (part b of SLC 0.3). We think that the full Standards of Conduct should apply to DSRSPs. They are a comprehensive package of protections and defined in such a way that, supplemented by guidance, they should give firms wide scope in how they're applied.

**14. Do you agree with the proposal to include a licence condition that instructs DSRSPs to only recommend services that are appropriate to the individual consumer's characteristics and preferences? Please give reasons for your answer and, where relevant, include reference to alternative or additional options.**

We agree. In addition, there should be a requirement for DSRSPs to proactively recommend a more suitable tariff or service when this is available, similar to the requirement for energy suppliers to inform customers when there is a tariff with better rates available.

**15. Would guidance for DSRSPs regarding appropriate services for different types of consumers be beneficial?**

Yes, we think guidance and good practice could serve as a helpful aid for DSRSPs to meet regulatory requirements and achieve positive outcomes.

**16. Do you agree with the proposal to use the Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008 as a basis for requirements for complaints processes for DSRSPs? Please explain your answer.**

We agree. As with any required standards, the efficacy will depend on proactive compliance monitoring and enforcement arrangements.

Last year, Ofgem announced new and updated rules for energy suppliers to be available via contact methods that meet customer needs.<sup>16</sup> Under SLC 31G and supporting guidance, Ofgem expects suppliers to provide the option of a free telephone line for customers who are, or will be struggling to pay their bills.

We think a similar requirement for DSRSPs would play an important role in protecting consumers and ensuring good outcomes. We know that a phone line option is highly valued by consumers, necessary for those without access to

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<sup>16</sup> Ofgem (2023) [Consumer standards decision](#)

other forms of communication, and essential for those with urgent need to get in touch.<sup>17</sup>

**17. Are there any requirements within the 2008 Regulations that you consider to be inappropriate to apply to DSRSPs?**

No. We think the Complaints Handling Standards are appropriate for DSRPs and should be applied in the same way.

**18. Do you agree with the proposal that the licence should require DSRSPs to participate in an ADR scheme? Please explain your answer.**

**19. Do you think there should be a single common ADR scheme across DSRSPs? Please explain your answer.**

Our response covers questions 18 and 19.

We agree that there should be a single common ADR scheme across DSRSPs and we think this should be provided by an Ombudsman. Multiple ADR schemes are likely to lead to consumers being more confused about their rights and who to complain to.<sup>18</sup>

We know that some of the major barriers consumers face when complaining are that they don't know how to complain and that the process is too complex.<sup>19</sup> Multiple ADR schemes would likely exacerbate this. While we understand a need for effective competition, high standards and value for money in ADR, these can be achieved in ways that are more beneficial to consumers, by periodically re-tendering a single ADR provider and through effective regulatory oversight.

More broadly, we're calling for a complete review of consumer protections for those carrying out green upgrades to their homes.<sup>20</sup> We're commonly seeing problems stemming from a confusing landscape of overlapping codes and schemes, making it difficult for consumers to have their complaints addressed in a straightforward or timely fashion. There have recently been media reports of upgrades completed under government-backed green energy schemes failing

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<sup>17</sup> Citizens Advice (2022) [Access Denied: Digital disadvantage and exclusion in the energy market](#)

<sup>18</sup> Citizens Advice (2017) [Confusion, gaps, and overlaps: A consumer perspective on alternative dispute resolution between consumers and businesses](#)

<sup>19</sup> Citizens Advice (2016) [Understanding consumer experiences of complaint handling](#)

<sup>20</sup> Citizens Advice (2024) [Letter to the Secretary of State for Energy Security and Net Zero - Urgent review of net zero consumer protections](#)

hundreds of thousands of households because of inadequate installations and unclear routes to redress.<sup>21</sup>

With the domestic flexibility sector still in its nascency, this is an opportunity to avoid a similar narrative. A single common ADR scheme can ensure consumers have a clear and straightforward path to follow when things go wrong.

**20. Do you think government should extend consumer advocacy and advice services to cover issues related to DSR load control? If so, what particular services do you think would be useful for DSR consumers? Please give reasons for your answer.**

Yes. As the DSR market grows and becomes increasingly integral to the energy retail market, the expansion of statutory advice and consumer advocacy provision will be crucial.

In 'A flexible future' we highlighted the need to improve people's awareness of flexibility and support them to understand what might work best for them.<sup>22</sup> We called on the government to invest in and expand statutory advice designed to offer impartial support on topics like smart tariff comparison. This should complement a national independent net zero advice service.

Other stakeholders have similar views on the need for advice. Nesta has shared its view that it "would expect some central funding to be needed to provide advisory services to support consumers make their transition to net zero"<sup>23</sup> and CSE has recommended that the government to "develop a strategy for the long term funding and provision of smart energy advice across the UK."<sup>24</sup> In its latest Smart and Fair report, CSE elaborates on its rationale for this, bearing in the mind the context of already stretched advice services:

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<sup>21</sup> 'Homes insulated in government scheme go mouldy', <https://www.bbc.co.uk/news/articles/cxwwr7vyrj0o> [accessed May 2024]

<sup>22</sup> Citizens Advice (2023) [A flexible future: extending the benefits of energy flexibility to more people](#)

<sup>23</sup> Nesta (2024) [Future of energy retail: how could the electricity retail market be designed to better support net zero delivery?](#)

<sup>24</sup> CSE (2024) [Smart & Fair: working with the smart energy capabilities lens](#)



“Access to impartial, reliable and high-quality advice is critical for ensuring fairness in the energy system. Currently the advice sector is under enormous pressure, with demand for services reaching unprecedented levels. The cost-of-living crisis and turmoil in the energy market mean that advisors are in crisis response mode. In this context, it is hard for advice organisations to widen their advice services to cover smart energy advice. This challenge is only going to grow as the need and complexity of smart energy advice grows and the range of smart energy offers and the types of demand side response (DSR) services increase.”



- CSE (2024)<sup>25</sup>

The expansion of statutory advice and consumer advocacy provision could help mitigate the majority of the risks we listed in ‘Demanding attention’, our risk register for domestic DSR published together with Energy UK and ADE.<sup>26</sup> For example, a trusted point of contact for impartial advice could boost consumer confidence and help alleviate consumer unwillingness to engage and consumer inability to engage. Advice and advocacy provision could complement and increase the efficacy of licence conditions, for example by helping consumers to navigate their rights around redress and being able to report companies not meeting their obligations.

### **Existing statutory advice and advocacy provision**

In the energy and post market, Citizens Advice is the statutory advocate and advice provider for England and Wales. The first tier service, which also provides some general consumer advice, is called the Consumer Service.

The Consumer Service’s contact details are on the back of energy bills, every regulated energy company website and signposted on [gov.uk/consumer-advice](https://www.gov.uk/consumer-advice) to enable people to access free and impartial advice.

The service makes a big difference to clients and can avoid inconsistent advice which risks happening in the absence of specialist advice. In 2023/24, across all sectors (energy, post and general consumer) the average value saved or

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<sup>25</sup> CSE (2024) [Smart & Fair: working with the smart energy capabilities lens](#)

<sup>26</sup> Citizens Advice (2021) [Demanding attention: Managing risks with demand-side response, to improve consumer experience tomorrow](#)

recovered was £1,500 per client. Overall in the energy market, almost 4 in 5 say their problem is resolved after calling our service. The service is funded by a levy on energy bills and is good value for money, coming to an estimated annual cost of just 5 pence per household.<sup>27</sup>

Through direct advocacy on behalf of clients and seamless referrals to escalated complaints handling via the energy supplier, the service can help people get their complaints resolved more quickly. In new markets where trust can easily be eroded, protecting the market reputation by intervening quickly can make a big difference. This is particularly effective in well regulated markets where a consumer protection framework obliges companies to work well with the service.

### **The potential for expanding statutory advice and advocacy provision**

At the request of DESNZ, we recently provided a costing model for statutory advice and advocacy services under a Specific Authorisation Scheme for TPIs. To create the costing model, we assumed that Citizens Advice's statutory function would be similar to that which we currently provide for consumers of energy suppliers.

Below is a list of services that are currently provided by Citizens Advice in the role of statutory advocate for energy supply customers, that we envision being important for TPI customers and, likewise, to DSR customers.

This represents our provisional thinking and, if this work progresses, we look forward to a more detailed discussion with government officials.

#### **Advice provision:**

- Create Consumer Service (CS) referral pathways. These pathways will allow CS agents to refer clients directly to a DSRSP, usually to a dedicated team. CS agents will enable issue resolution and help the customer communicate with the DSRSP.
- Refer clients from the Consumer Service to an Extra Help Unit (EHU) style service, in the event of particularly complex cases or where the client is in vulnerable circumstances. These advisers will also engage with the DSRSP

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<sup>27</sup> Citizens Advice (2024) [Consultation on our Draft Consumer Workplan for 2024-25](#)

in question, supporting the client in a 'casework' format, providing holistic support until the issue is resolved.

- Develop and maintain Expert Advice relating to DSRSPs. The development of Expert Advice will also underpin effective Advice Provision by the CS and EHU style function.
- Develop and maintain web advice and content relating to key issues by DSRSP consumers as well as associated campaigns content that signposts people to our advice services.

### **Monitoring of DSRSPs:**

Monitoring will allow Citizens Advice's Energy Policy team to identify issues that are arising for consumers and with particular DSRSPs. This information will assist with advocacy work, but will also enable effective engagement with a DSRSP to resolve problems and promote good practice. Monitoring activity will include:

- Monitoring of case volumes to identify common issues or specific DSRSPs that are not meeting required service standards;
- Carrying out Tripartite meetings with the regulator and the relevant Ombudsman. Monitoring data will inform the tripartite meetings, in which we discuss emerging issues and develop responses to them;
- Where appropriate, meetings with specific DSRSPs to discuss consumer detriment.

### **Policy and advocacy activity:**

We would also carry out more general Policy and Advocacy activity relating to DSRSPs. This would include:

- Research into DSRSPs, how they are functioning in the market, and consumer issues that are arising.
- The development of policy recommendations and best practice guidance in response to emerging issues within the new regulatory framework;
- Engagement with key stakeholders including Ofgem; DESNZ; Ombudsman and DSRSP representative groups.



More broadly, it is important that the workstreams considering the future of the energy retail market, TPI authorisation and load control licensing complement each other. The regulatory framework should be clear and joined up, as organisations may have roles in a combination of energy supply, TPI services and load control services.

**21. Do you agree with the proposal to use the definition of vulnerable situations used in the Electricity Supply Licence? Please give reasons for your answer and, where relevant, include reference to alternative or additional options.**

We agree. The definition of vulnerable situations recognises that vulnerability arises from the interaction between market conditions and a household's circumstances, which makes it suitably broad to cover different markets.

Supporting guidance is likely to be helpful for the load control industry to identify and support those in vulnerable situations effectively.

**22. Do you agree with the proposal that DSRSPs should seek to identify and maintain their own records of consumers in vulnerable situations? Please give reasons for your answer and, where relevant, include reference to alternative or additional options.**

We agree, however we would like to see some light-touch standardisation and guidance about what information DSRSPs should maintain and this should complement any wider work on a cross-sector PSR. In the future, there is likely to be value in DSRSPs sharing these records with other parts of the energy market and beyond, with appropriate consent mechanisms.

**23. Do you think DSRSPs should be required to deliver the priority services defined in SLC 26.5 (a), (b) and (e), and/or any other priority services in the Electricity Supply Licence?**

Yes. At a minimum, the priority services relating to account management and communication should be provided by DSRSPs. Otherwise, the risk of detriment for those in vulnerable circumstances is similar to that in the energy supply market.

We agree that priority services relating to the activity of supply are not relevant in their current form to load control activities. However, there are some priority

services that could be adapted to help alleviate risks of detriment specific to the load control market.

For example, while the risk of consumers in vulnerable situations experiencing difficulty operating a prepayment meter may not be relevant for the load control market, there is a not dissimilar risk of consumers in vulnerable situations experiencing difficulty operating a DSR product or service.

To this end, we would ask that SLC 26.5 is adapted to require DSRSPs to help consumers operate their product or service.

As set out in our answer to Q22, we would like to see some light-touch standardisation and guidance about what information DSRSPs should maintain and this should complement any wider work on a cross-sector PSR.

**24. Do you agree with the position that the Equality Act 2010 provides sufficient protection regarding inclusivity and accessibility of the design of DSR processes and services? Please give reasons for your answer and, where relevant, include reference to alternative or additional options.**

We disagree. The government has committed to remove barriers for consumers who may otherwise struggle to participate in smart energy.<sup>28</sup> Inclusively designed DSR processes and services will be key to lowering barriers and we do not think the Equality Act provides sufficient protection on its own. We agree with the Regulatory Assurance Project (RAP)'s assessment that "it is insufficient to point solely to indirect system savings as evidence of demand-side flexibility being equitable, especially while supporting more affluent users to receive direct flexibility rewards."<sup>29</sup>

We think the government can drive forward accessibility in the smart energy sector by introducing a specific outcomes-based licence requirement for DSRSPs to design accessible products and services, complemented by guidance or standards.

Our research showed disabled people, people with additional literacy needs and those who are digitally excluded, risk being excluded from the DSR market

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<sup>28</sup> DESNZ (2021) [Transitioning to a net zero energy system: smart systems and flexibility plan](#)

<sup>29</sup> Regulatory Assurance Project (2024) [Flex-ability for all: Pursuing socially inclusive demand-side flexibility in Europe](#)

unless products and services are designed in ways that meet their needs.<sup>30</sup> This aligns with findings from research by Energy Systems Catapult and the Research Institute for Disabled Consumers into emerging vulnerabilities in the future energy system.<sup>31</sup> Additionally, in its evaluation of the Demand Flexibility Service, CSE found that people living with health conditions had less positive experiences of the service.<sup>32</sup>

In the energy retail market, protection goes above and beyond the Equality Act, with a requirement for energy suppliers to understand their customer needs and provide adequate services. Yet still there is evidence that the needs of people with English as an additional language are not being met. CSE has highlighted that only 2 out of the 12 main energy suppliers offer translation services to customers who need them.<sup>33</sup> A Consumer Duty approach could hold energy suppliers, and ultimately DSRSPs, to account on achieving and evidencing positive outcomes across different consumer groups.

The Equality Act requires companies to consider “reasonable adjustments” in an anticipatory way, but we know from our research that smart energy stakeholders need more information and guidance about how to make their products and services more inclusive and accessible.<sup>34</sup> The Women and Equalities Committee has recommended that the government should “engage with businesses on improving the inclusive design of products and services in their sectors, work with them to overcome barriers businesses may face in achieving inclusive design and publish guidance on best practice.”<sup>35</sup>

In practice, the route to challenging practices under the Equality Act is insufficient, relying on an individual to initiate legal action. A range of difficulties are faced by individuals in enforcing their rights this way, including lack of awareness of equality rights, the complexity and expense of litigation and

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<sup>30</sup> Citizens Advice (2023) [A flexible future: extending the benefits of energy flexibility to more people](#)

<sup>31</sup> Energy Systems Catapult, Research Institute for Disabled Consumers (2023) [Emerging vulnerabilities: Potential impact of decarbonisation for disabled consumers](#)

<sup>32</sup> CSE (2023) [Household engagement with the Demand Flexibility Service](#)

<sup>33</sup> CSE (2024) [Lack of translation services leaves some energy consumers out in the cold](#)

<sup>34</sup> Citizens Advice (2023) [A flexible future: extending the benefits of energy flexibility to more people](#)

<sup>35</sup> Women and Equalities Committee (2024) [Accessibility of products and services to disabled people](#)

inadequate remedies, limited access to legal aid, and failure to make reasonable adjustments in the court system.<sup>36</sup>

We do not think that relying on the Equality Act and waiting for best practice to emerge from DSRSP experience is the best approach. As laid out in 'A flexible future', we urge the government to co-ordinate the development of industry standards for designing accessible products and services.<sup>37</sup>

**25. Do you agree with our proposal around requiring DSRSPs, in the scenario that they offer an interface to consumers to manage their service, to offer the option for the consumer to request cancellation of load control of their ESA? Please explain your answer.**

We agree. It is important consumers can intervene through all interfaces at their disposal to cancel a DSR action should they need to. Requiring this in the licence is necessary to achieve this, in conjunction with the override function to be required for ESAs. We also believe that providing this important safeguard will improve consumer confidence in DSR.

Requiring clear communication from DSRSPs will be paramount here, as consumers need to know that they have the right to request cancellation if they are to exercise it. As set out by The Behaviouralist, helping consumers develop a sense of control "not only requires developing manual override functionality but also effectively communicating it to consumers."<sup>38</sup>

**26. Do you think any further guidance or requirements related to the consumer's ability to request cancellation of a remote load control action through a DSRSP could be warranted now or in the future? Please explain your answer, making reference to the potential requirements outlined in the consultation as well as any further requirements not discussed.**

We do not have a strong position on the potential further requirement for DSRSPs to provide a remote interface to control service preferences, but we

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<sup>36</sup> Equality and Human Rights Commission (2019) [Written submission \(EEA0254\)](#) for the HoC Women and Equalities Committee

<sup>37</sup> Citizens Advice (2023) [A flexible future: extending the benefits of energy flexibility to more people](#)

<sup>38</sup> The Behaviouralist (2024) [Applying behavioural insights to unlock energy demand flexibility: Guidebook for practitioners](#)

welcome the government's openness to considering this in future should evidence arise around this improving the consumer experience.

We are in favour of requirements around ease and cost of requesting the cancellation of a DSR action. Any financial penalty for cancellation of a remote control action should be proportionate to the cost incurred and the provider should ensure their customers understand this cost at the point of sale and in terms and conditions. By introducing financial protection for households now, the government can play its part in enabling a more diverse variety of consumers to feel confident in and benefit from DSR.

Consumer confidence in DSR relies on the market being as risk-free to the consumer as possible. Research from the Regulatory Assurance Project (RAP) recommends that "low-risk and upside-only retail offers" help build a bridge to flexibility for less-affluent households.<sup>39</sup>

**27. Does the proposed package of consumer protection measures offer sufficient protections to consumers while also enabling DSRSPs to develop innovative service offerings? Please explain your answer.**

Yes. A comprehensive package of consumer protection measures is vital for achieving the high levels of consumer confidence that will enable an evolving, innovative market. The measures are defined in such a way that, supplemented by guidance, they should give firms wide scope in how they're applied.

**28.**

Not answered

**29. Should government include any further requirements to protect consumers in the load control licence not covered in this chapter? Please reference specific requirements where appropriate.**

To summarise our answers to previous questions, we recommend the following further requirements:

- The full Standards of Conduct should apply to DSRSPs (see answer to question 13)

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<sup>39</sup> Regulatory Assurance Project (2024) [Flex-ability for all: Pursuing socially inclusive demand-side flexibility in Europe](#)

- There should be a requirement for DSRSPs to proactively recommend a more suitable tariff or service when this is available, similar to the requirement for energy suppliers to inform customers when there is a tariff with better rates available (see answer to question 14)
- Licensees should be available via contact methods that meet customer needs, including via a free telephone line (see answer to question 16)

### **30 - 31.**

Not answered

## **Consumer switching**

### **32. Do you agree with government's proposal to include a requirement in the licence requiring DSRSPs to allow consumers to exit a service? Please give reasons for your answer.**

We agree. As we laid out in our response to the government's call for evidence on a more innovative retail market, contracts will need robust consumer protections to avoid locking people into services that no longer meet their needs, or when there is a change in their circumstances.<sup>40</sup> In recent research, participants felt concerned that some products could lead to volatile bills.<sup>41</sup> Unduly penalising consumers for trying out a product or service that ultimately doesn't meet their needs or deliver good outcomes for them could be detrimental for consumer confidence and trust in the market.

Furthermore, service exit is likely to be fairly routine in the private rented sector where changes of tenancy are common. Contracts and service exit arrangements must accommodate this and should also consider impacts for incoming tenants if the outgoing tenants have not cancelled a contract.

It should be an explicit aim of these technical and regulatory frameworks to foster effective competition in the flexibility market, including ESAs and DSRSPs. Effective competition would provide the right incentives for companies to provide competitive offers and minimise the risk of consumers not getting a fair deal.

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<sup>40</sup> Citizens Advice (2023) [Towards a more innovative energy retail market: call for evidence](#)

<sup>41</sup> Citizens Advice (2023) [A flexible future: extending the benefits of energy flexibility to more people](#)

To have effective competition consumers must have three things:

1. the contractual ability to exit a service
2. the awareness of this choice
3. the realistic ability to be able to switch

The requirement proposed would ensure consumers have the contractual ability to exit a service or contract. Access to statutory advice and advocacy could help achieve awareness of the choice to switch (see answer to question 20) and ESA interoperability requirements should help with the realistic ability to switch.

We also agree with extending this requirement to small non-domestic consumers who would not otherwise get these protections under consumer protection law. Small business energy consumers engage with the energy retail market in a very similar way to domestic consumers, and face similar challenges. We know that many businesses are disengaged from the energy retail market, have difficulties understanding how it works and their rights within it. Compared to larger businesses, small business owners are unlikely to have the time or knowledge to investigate complex energy products and services, and disproportionately benefit from measures to improve transparency.

**33. Do you agree with government's proposal for a condition that fees associated with a consumer's service exit should be proportionate, and if so, do you have a preference as to how 'proportionate' is defined? Please explain your answer.**

We agree with the aim of addressing the risk that consumers are locked into a service with an individual DSRSP and are unable to access better deals from other DSRSPs.

We think that taking precedence from the electricity supply licence is the more appropriate approach here, as opposed to relying on a 'fairness' definition. It is important to provide a clear upper cap on exit fees. By specifying that exit fees must be proportionate and should "not exceed the direct economic loss to the licensee resulting from the Domestic Customer's termination of the Contract, including the costs of any Non-Energy Product comprised in any Tied Bundle that has already been provided to the Domestic Customer as part of the Contract," the energy supply licence clearly links the maximum exit fee to the

cost incurred by the supplier. We agree that the term “Non-Energy Product” would need reconsidering and this should encompass ESAs.

In practice, the level of protection that this will provide for consumers with a product or service linked to a property is likely to be limited, especially for private renters. Some assets provided by a service may be portable to a new property, but others are likely to be deeply integrated into the fabric of the home, where removal will not be feasible or desirable, and consumers may not be able to afford to buy their way out of the contract.

One option is for loans to be linked to the property rather than the consumer, meaning they are taken on by the next bill payer. The Green Deal framework already facilitates this approach, but has been relatively little used and may need reviewing to ensure it remains appropriate, and to understand how consumer uptake could be improved.

We would assume that the higher capital costs and installation challenges associated with some technologies like EVs, heat pumps, solar PV and batteries would mean that contracts are likely to be longer than an electricity supply contract and technologies could not simply be returned to the provider in the way consumers can with telecoms contracts. Exit fees are therefore likely to require the full repayment of these capital costs which could be into the thousands of pounds.

In these instances it is highly likely this would act as a significant barrier to consumers exiting contracts who would, in effect, be locked into services long-term which they may no longer benefit from. This is particularly the case given that one of the main appeals of bundled products is the ability to spread the high capital costs of technologies over a longer period of time. Those entering into these contracts may be least able to afford such an exit fee and could mean those on lower incomes face disproportionately high barriers to switching mid-contract.

Being locked in to a service for ESAs also risks creating the wrong incentives for DSRSPs if consumers cannot practically move providers for load control services. This could be addressed to some extent if credit or leasing agreements for ESAs are with third parties providing a separate credit / leasing agreement in conjunction with the DSRSP. As leasing agreements are covered by FCA



regulation, the interplay of different regulatory regimes will need to be carefully managed to ensure a simple consumer experience.<sup>42</sup>

Therefore, minimising barriers to switching in the case of higher capital cost technologies may require further consideration and a greater level of intervention.

**34. Do you think any further requirements around service exit need to be included in the licence, for example around the visibility of exit fees at the consumer contract? Please give reasons for your answer.**

Yes. We think that licence requirements should go further around visibility of exit fees.

Consumer contracts should make clear both the right to exit a contract early and the costs of exiting, including any cost recovery for ESAs. This should be covered by a requirement similar to SLC 23.1, whereby suppliers must communicate about “principal terms” (which includes termination fees) in clear and intelligible language.

Visibility of being able to switch will be essential in driving a competitive market. Comparable tariff or cost information will also be important to ensure that consumers can make informed choices about initial contracts and to compare current terms with those of alternative providers. In tariff comparison services, information on exit fees often plays a role in helping consumers compare suppliers. We envisage in the future there could be scope for transparent exit fees to play a similarly helpful role in aiding load control consumers to choose the best option.

**35. Do you think there should be requirements for DSRSPs to enable orderly switching of ESAs between services? What specific measures do you think might need to be covered as part of these requirements – including those referenced in this consultation? Please give reasons for your answer.**

Consumers should not be locked into specific service providers for the lifetime of an appliance or asset, nor should they have their choice of appliance or service restricted.

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<sup>42</sup> GOV.UK, [‘Offering credit to consumers: the law’](#)

We acknowledge that the interoperability requirements applying to the sale of ESAs, proposed in the ESA paper, should provide a good foundational layer of protection around switching. DSRSPs should ensure they fulfil these requirements where they act as an ESA seller. We would recommend that these requirements are cross-referenced in the load control licence, in order to clarify and reinforce the fact that the interoperability requirement applying to the sale of ESAs may apply to some DSRSPs too.

We think there is a need for transparency and protection for consumers in instances where DSRSPs may block a customer from switching to other providers if they believe the customer owes money, for example for products they are paying off over time as part of a contract, or if the service is combined with energy supply. To this end, we think the government should explore the need for a requirement similar to SLC 14, so that such transfer blocking is not permitted if the money owed is in dispute.

**36.**

Not answered

## **Data privacy**

**37. Do you agree with our proposal for no further legal requirements on load control licensees around data privacy at this time? Please explain your answer.**

We disagree. Without further legal requirements on load control licensees around data privacy, there will continue to be a gap in between the data privacy standards met by energy suppliers and network operators and the standards met by load controllers. It would be proportionate to hold energy data users, including load controllers, to similarly high standards.

We think that the Data Access and Privacy Framework, an established data privacy standard that suppliers and network operators are required to meet, should be updated to include load controllers.<sup>43</sup> It should set out clear parameters around the data that load controllers can access, the granularity of that data and consent mechanisms. Excluding load controllers from this

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<sup>43</sup> DESNZ (2018) [Smart Metering Implementation Programme: review of the Data Access and Privacy Framework](#)

framework risks creating a two tier system where customers engaging with energy services via a load controller are less protected than those engaging via an energy supplier.

In 'Demanding Attention', we found that concerns about access to individual disaggregated data were one of the significant risks to the success of demand side response.<sup>44</sup> We found that consumers were offered limited protections regarding their data and highlighted concerns that changes to GDPR could negatively affect consumer trust and confidence. Moreover, many aspects of GDPR are yet to be tested in court and there are lengthy lead times for regulation or court action to take effect.

We think it's important that the government takes a proactive approach here, rather than waiting for specific risks to consumer privacy to emerge from load control services. This risks impacting the reputation of demand flexibility and negatively affecting consumer trust and engagement.

**38. Are there specific risks to consumers associated with the processing of personal data as part of load control services not addressed by the UK's data protection framework? Please explain your answer, referencing specific evidence where relevant.**

**39. Would specific requirements around the protection of personal data from load control services significantly improve consumer confidence in the sector? Please explain your answer, referencing specific evidence where relevant.**

Our answer covers questions 38 and 39.

In 'Smartening up', nearly a quarter of people (23%) we spoke to said that concerns about companies accessing their data is the biggest barrier to using smart home technology.<sup>45</sup> Our 'Clear and in control' research found that 89% of people regarded the ability to opt out as important for trusting services that use smart meter energy data.

It should be noted that the majority of consumers are unlikely to actually use these opt-outs. Ofgem reporting indicates that fewer than 10% exercise this

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<sup>44</sup> Citizens Advice (2021) [Demanding attention: Managing risks with demand-side response, to improve consumer experience tomorrow](#)

<sup>45</sup> Citizens Advice (2021) [Smartening up: How to improve people's confidence in smart home technology](#)

right. But the existence of choice is vital to reassure consumers and give them the confidence needed to engage in the first place. Robust opt-outs and protections consistently increase engagement.

Companies providing smart home technology have the potential to collect and use their customers' data for a wide range of purposes. For example they can help people choose the right tariffs or services, based on their previous choices and patterns in energy usage. However, there are also risks about the kinds of decisions that companies make about consumers based on their data, and the kind of options that different people end up having. The potential for autonomous decision-making and price discrimination means that additional data protections are appropriate.

The consultation suggests that companies will need to seek explicit opt-in consent if they want to use consumer's data for direct marketing purposes. Our research found that consumers aren't only concerned about their data being used for marketing purposes. 34% of respondents said they were uncomfortable giving permission for their data to be passed to automated switching services, so that they can benefit from better tariffs. 38% of respondents were uncomfortable with energy suppliers using half hourly data to work out peak energy use times and bill them based on this.<sup>46</sup>

We know that consumers tend to be aware of the value of their data, but are less aware of what this value is and what they can expect in return. Our work examining how to communicate with consumers about data choices showed that consumers are aware of this value but not of what it is.<sup>47</sup> In complex, nascent markets, there must be transparency about what data will and won't be used for and the benefits that consumers can expect.

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<sup>46</sup> Citizens Advice (2019) [Clear and in control: Energy consumers' views on data sharing and smart devices](#)

<sup>47</sup> Citizens Advice (2016) [Summary report on energy suppliers' communication with consumers regarding smart meter data](#)

**40. In the instance that a load control licensee has produced an assessment of its processing activities, do you think this assessment should be pro-actively shared with Ofgem? Please explain your answer.**

We agree that requiring load control licensees to provide Ofgem with additional oversight should help support a more informed assessment of the need for further regulatory intervention. Ideally, this information should be available more broadly and open to public scrutiny.

**41. Would the creation of sector-specific guidance, like an ICO-approved UK-GDPR code of conduct, be beneficial for consumers and load control licensees? Please explain your answer.**

Yes, we think that such guidance could be beneficial, if the government adopts this approach. However, codes of conduct are only as useful as they are enforced. It is currently not easy for the average consumer to independently make an ICO referral, so tight accountability will be crucial, with any breaches taken seriously and investigations and enforcement action taken swiftly.

With this approach, with more than one regulator involved, we would have concerns that lack of alignment between regulators may slow down and limit the effectiveness of investigations and enforcement.

## **Management and financial controls**

**42. Do you agree with the proposal for a condition requiring licensees to have fit and proper senior personnel? Please explain your answer.**

**43. Do you agree with the proposal for a condition around the operational capability of load control licensees, and how might a load control licence approach this? Please give reasons for your answer.**

**44. Do you agree with the inclusion of a financial responsibility principle in the load control licence and how might this be approached? Please explain your answer.**

Our response covers questions 42, 43 and 44.

We agree on the inclusion of requirements around licensees having fit and proper senior personnel, operational capability and a financial responsibility principle. These measures would play an important role in mitigating against

mismanagement of load control licensees and the subsequent impact on consumer confidence. We know from the energy supply market that mismanagement can have significant negative impacts on consumers and confidence.<sup>48</sup>

It would be important for such conditions to be complemented with requirements similar to SLC 5 around providing information to, being open and cooperative with, and complying with independent audits from Ofgem.

#### **45. What risks to consumers do you anticipate may arise from the insolvency of load control licensees?**

The scale of risk largely depends on how this cost is recovered. The cost of company failures to consumers, both financially and regarding the impact on consumer trust in the market, is significant.

#### **46. Do you agree that specific processes for insolvency of load control licensees are not required? Please explain your answer.**

Prior to the introduction of the Supplier of Last Resort (SoLR) process in the energy supply market, the generalised insolvency process was delivering poor consumer outcomes in the energy supply market.

While we don't think there is a strong rationale for a SoLR approach in the load control market, there is certainly a need for improvements to the administration process. For example, practices around debt recovery and repayment of any money owed to consumers should be held to higher standards.

#### **47 - 48**

Not answered

## **Timelines, implementation and next steps**

#### **49. Do you agree with government's proposal for Ofgem to be able to start the process of assessing licence applications by the end of 2025? Please explain your answer.**

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<sup>48</sup> Citizens Advice (2021) [Market Meltdown: How regulatory failures landed us with a multi-billion pound bill](#)

**50. Do you have views on the length of the ‘transition period’ between the licence application process opening and the conditions in the licence being effective? Please explain your answer.**

Our answer covers questions 49 and 50.

We agree with the timelines laid out. As we discuss in ‘Don’t settle for second best’, it is vital that the SSES programme is able to progress at pace and that any new regulatory frameworks complement a broader Consumer Duty.<sup>49</sup> The next 2 years are critical to ensure everything is in place for people across the country to benefit from a net zero electricity system.

**51.**

Not answered

**52. Do you agree with our proposal that all requirements for DSRSPs in this consultation should apply equally to all relevant organisations irrespective of size? Please explain your answer.**

We agree. The requirements set out should be flexible enough to enable organisations to meet them regardless of size and a transition period should support licensees with compliance.

**53. Do you agree with the approach on tiering requirements for Load Controllers based on how much load they have the potential to control? Please explain your answer.**

We agree, for reasons set out in our response to questions 9 and 10.

**54. What role do you think external standards have to play in demonstrating compliance with the load control licence, particularly measures for DSRSPs? Please explain your answer.**

Existing external standards, such as PAS 1878/79 and the HOMEflex Code of Conduct, can play an important role now in enabling DSRSPs to work towards and ultimately evidence that they are already complying with high standards for this sector in preparation for the licensing regime.

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<sup>49</sup> Citizens Advice (2024) [Don't settle for second best: Ensuring energy market reforms stack up for people](#)

**55. Do you agree with the proposal for electricity suppliers to hold a separate load control licence? Please explain your answer.**

We agree. It is appropriate to have separate licences for the 2 separate activities of supplying energy and controlling load. It's important that these complement each other well, to help minimise any burden to industry as much as possible.

**56. Do you agree with the proposed approach for recovering the costs of administering a licensing regime? Please explain your answer.**

We agree with the proposed approach for recovering costs, since this is an established and effective approach towards recovering supply licence administration costs. We agree that decisions around the distribution of costs across load control licensees and other licensees should be informed by further assessment of expected costs and expected number of businesses in scope.



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