

Citizens Advice response to Ofgem's non-domestic market review: Statutory consultation on licence changes

January 2024



1. Summary

1.1 Summary of main consultation response:

We welcome the opportunity to comment on Ofgem's proposed changes and additions to the Standard Licence Conditions for non-domestic gas and electricity suppliers, and to the Complaints Handling Standards regulations.

Citizens Advice is supportive of all five proposals, as they expand protection from microbusinesses alone to include small businesses. In particular, we are supportive of the expansion of the Complaints Handling Standards and of the requirement on suppliers to work with TPIs that are part of a Qualifying Dispute Settlement Scheme (QDSS).

It is well established that small business consumers function in a very similar way to micro business consumers when it comes to engaging with the energy retail market, and that they have similar needs and challenges.¹ Despite this, small businesses have not had access to the same consumer protections that microbusiness consumers enjoy. This is particularly problematic because they often don't have the resources to seek legal advice when things go wrong.

Ofgem's proposed changes will help address this issue by providing access to redress options. The changes should also set higher standards for suppliers across the market, helping to improve consumer confidence and engagement.

Alongside this broad support, we have two main areas of concern that we would like Ofgem to take into account in their decision making process:

- **Ofgem should expand protections in a manner that enables it to flexibly meet consumer needs in future**

In the consultation, it is proposed that the Standards of Conduct and TPI fee transparency requirements be expanded to protect all non-domestic consumers. We agree with Ofgem's assumption that both of these proposals will contribute to a greater expectation of transparency and fairness across the sector. However, we are concerned that applying a single standard to such a diverse group of consumers will limit the regulator's ability to respond to specific consumer needs in the future.

¹ Ofgem (2018) [Micro and Small Business Engagement Survey 2018](#); BMG Research (2015) [Micro and small business engagement in the energy market](#)

Small and micro businesses are less likely to be engaged energy consumers, and frequently encounter issues with billing and contracting that are compounded by a lack of expertise and confidence. This means they are more likely to fall victim to mis-selling, or to sign up for contracts that they do not understand.² Larger businesses are more likely to have expert employees dedicated to negotiating appropriate energy contracts, and to have recourse to legal support should disputes arise.³ This gulf in experience and outcomes could widen as the future retail market grows in complexity. As we move towards Net Zero, the volume of products and services available on the market will increase. Small and microbusiness consumers will need growing levels of advice and support to help them access the contracts and services that are right for them. It is possible that further consumer protections will be required alongside this advice to ensure fairness and transparency.

Citizens Advice therefore recommends that Ofgem consider whether it is appropriate to have one protection framework for all non-domestic consumers. Maintaining separate frameworks for domestic, Micro/Small business, and larger businesses will allow Ofgem to develop tailored protections where they are required, and to dis-apply them where they are not relevant. For example, we note that some suppliers were concerned about being required to communicate with their larger business customers in 'plain and intelligible' language under the proposed SoC expansion, due to the complexity of their contracts. This specification could be removed from an SoC that applies only when suppliers are serving this group.

- **The protections in question will only be successful if implemented properly**

In expanding the SoC, Ofgem hope to ensure that all non-domestic consumers benefit from protections already in place for microbusiness consumers. However, our data shows that microbusiness consumers frequently experience detriment as a result of suppliers not meeting one or more of the principles outlined under the Standards of Conduct.⁴ Ofgem themselves have noted that supplier behaviour has sometimes fallen short of the SoC, with both micro and small businesses being affected.⁵ Based on this evidence, we are concerned that expanding the SoC to apply to all non-domestic consumers won't result in

² Citizens Advice (2023) [Closing the protection gap](#)

³ Ofgem (2017) [Micro and Small business customer engagement in the energy market](#) and DESNZ (2023) [New Threshold for businesses accessing the Energy Ombudsman](#)

⁴ Some examples outlined in our [response to Ofgem's Call for Input](#), March 2023.

⁵ Ofgem (2023) [nNon-domestic market review: Statutory Consultation on licence changes](#)

material differences for consumers unless the rules are properly followed and enforced. Ofgem should work closely with suppliers during the implementation period, to ensure that they are putting adequate resources and investment into complying with the new Standards. Further compliance and enforcement activity may be required to help assess whether the proposed changes are impacting consumers.

1.2 Summary of our response to Ofgem's additional work:

In addition to the proposed changes to the licence conditions and Complaints Handling Standards (CHS), Citizens Advice also recognises and supports the work Ofgem is carrying out in other areas, including: guidance on deemed contract rules; billing transparency best practice; change of tenancy process streamlining and the consideration of Domestic Consumers on Non-Domestic Contracts. Citizens Advice has been working closely with Ofgem to raise awareness of the main issues our clients face when engaging with the non-domestic retail market, and Ofgem's focus on these key retail activities shows that they have taken our intelligence into account. In particular, we believe that setting best practice standards on billing and Change of Tenancy processes will have an immediate and meaningful impact on consumer experiences.

Finally, we recognise that Ofgem has undertaken steps to enhance their monitoring, compliance and enforcement activity. These activities are essential for ensuring that both existing and proposed consumer protections are functioning appropriately, and we are therefore pleased to see that they remain a priority for Ofgem.

1.3 Differences between Small and Microbusiness consumer protections:

While Citizens Advice is supportive of the measures proposed by Ofgem in their consultation, we are concerned that some protections that apply to microbusiness consumers have not also been applied to small business consumers. Not only does this create a protection gap between micro and small businesses consumers, but it also has the potential to cause confusion for consumers.

Specifically, we are concerned about the following licence conditions:

1. The SoC guidance lists designated activities covered by the standards including SLCs 14, 14A and 21B. However, this does not include the backbilling rules outlined in 21BA, meaning that small businesses will not be protected against back billing.

This is concerning because, as outlined in our 2018 [Closing the Protection Gap](#)

report, debt is a common problem for microbusiness consumers. Irregular billing from suppliers can exacerbate the issue, as the debt builds to more unmanageable levels unnoticed by consumers. Back-billing rules help to limit harm caused by a lack of contact from a supplier, as they prevent debt accruing from unbilled usage that is over a year old. The below case studies are taken from our Consumer Service data:

Case Study:

Yasmine* has not received a bill since 2019 for the gas supply to her business. She has tried to contact her supplier multiple times about this issue, but has not received any communication about this. Yasmine's supplier has recently sent her a back bill of £4500, billing her for gas usage at her property over the last 4 years.

Case Study:

Alex* is halfway through a three year contract with his supplier. The gas bills have always been regularly sent, but since the beginning of his contract he has never received a bill for electricity. He has been disputing this with his supplier for some time, and recently received a back bill chasing him for payment for energy usage between August 2021 - June 2022.

*names changed in all case studies to protect anonymity.

Back billing rules help ensure a minimum level of engagement from suppliers and prevent bad debt from accruing. Without them, small businesses are at risk from poor practice such as that outlined in the case studies above. In light of this, Citizens Advice would like to see Ofgem consider expanding back billing rules to apply to small businesses as well as microbusinesses.

2. There is a potential discrepancy between the proposed guidance on Working with Third Party Intermediaries and the proposed SoC guidance:
 - The Designated Activities covered by the SoC will apply to "any matters which fall within the scope of standard conditions 14, 14A and 21B *insofar as they relate to a non-domestic customer.*"
 - However, the Third Party Activities include "any matters falling within the scope of standard conditions 7A, 14, 14A and 21B *insofar as they relate to a microbusiness consumer.*"

It is not clear from the above guidance whether Small Businesses can seek redress when their complaint relates to the Third Party Activities, despite being able to access the Energy Ombudsman with complaints about Third Party Intermediaries. We recommend that the guidance on Working with Third Party Intermediaries be brought in line with the proposed SoC guidance, to avoid confusion.

2. Impact Assessment

Q1. Alongside this consultation document we have published a draft impact assessment we have published a draft impact assessment. Do you have any comments on the draft impact assessment published alongside this document, including the costs and benefits, competition impacts and unintended consequences?

Overall, Citizens Advice is satisfied that the draft impact assessment is comprehensive, and we agree with most of the assumptions made on non-monetised benefits. We are not best placed to comment on the costs of the proposed changes to suppliers.

Our full response to this question is broken down into four parts. The first focuses on the non-monetised benefits of the introduction of signposting requirements and access to a TPI redress scheme; the second and third parts focus on competition, and the fourth section addresses concerns about the limitations of the Complaints Handling Standards and Standards of Conduct.

i. Introduction of signposting requirements, and access to a TPI redress scheme for small business consumers:

We agree that the introduction of signposting requirements to Citizens Advice, and access to a TPI redress scheme could prevent a small business consumer from needing to access legal support. This will result in a significantly reduced outlay when they encounter a problem.

We note that signposting requirements in particular may result in better outcomes for small businesses, microbusinesses and suppliers, as it will enable businesses to contact us at an earlier stage when addressing a problem. Addressing issues early can help identify sustainable solutions and prevent escalation, reducing costs for the business

and the supplier in question. For example, a small business struggling with debt could contact Citizens Advice, who can work with them and their supplier to negotiate a sustainable debt repayment plan. The earlier this process can begin, then the more likely it is that the debt can be paid off successfully. This will ensure that the business can continue to function, whilst reducing the risk of bad debt for the supplier. Signposting in an appropriate form and frequency increases the likelihood of this outcome occurring.

Taking these outcomes into account, it is clear that the introduction of signposting requirements and access to a TPI redress scheme will have a positive impact on small businesses, microbusinesses and their energy suppliers.

ii. Impact on competition in the TPI/broker market

We also agree with Ofgem's assessment of the impact on competition in the TPI/broker market outlined in their statutory consultation. We agree with Ofgem that there is a slight risk of competition dampening in the months immediately after the new rules come into force. This is because it is likely that some services will become temporarily unavailable to small businesses, as TPIs make the necessary preparations to comply with Ofgem's proposals, meaning that there are fewer to choose from. However, we also agree with the assessment that improved quality of services will improve consumer trust in the market and subsequently have a beneficial impact on competition. The net impact on competition in the TPI/ broker market is therefore likely to be minimal.

iii. Impact on competition in the energy supply market due to changes to the Standards of Conduct and Complaint Handling measures:

We agree with Ofgem's assessment that better customer service can result in increased demand from consumers and confidence to engage, driving competition for higher quality services. We agree that any potential dampening in competition from expanding the complaints handling rules to Small Business consumers and Standards of Conduct to all consumers is likely to be minimal, and will be significantly outweighed by the positive effects on consumer outcomes.

iv. Concerns about the limitations of the CHS and SoC:

Ofgem's assessments of the benefit of expanding the Standards of Conduct to all non-domestic consumers, and the Complaints Handling Standards to small business consumers both rest on the assumption that the SoC and CHS consistently result in good outcomes for the consumers already under their scope.

We're concerned that some microbusiness consumers who contact our services - who already benefit from the SoC and CHS - still experience behaviour from energy suppliers that contravene these protections. Ofgem must ensure proper compliance with the CHS and SoC if the expansion of these protections to small business consumers is to be effective. Improving signposting to statutory advice services should also improve supplier compliance by enabling consumers to better resolve their issues and improving the 'feedback loop' back to suppliers.

Q2. Is there anything that has not been included in the impact assessment that you believe should be included?

No further comments on the impact assessment.

3. Standards of Conduct

Q3. Do you agree with our proposal to expand the Standards of Conduct to all Non-Domestic Consumers? Please provide a reason for your view.

Citizens Advice is broadly supportive of the proposal to expand the Standards of Conduct to all Non-Domestic consumers. The Standards of Conduct outline broad principles that should generally be expected in any transaction, no matter how complex the product or service. Applying these to businesses larger than microbusinesses will close a clear protection gap and help raise the bar across the non-domestic market, helping to ensure smooth business operation; reduce the risk of fraud and dishonesty; and provide a mechanism for addressing issues.

However, given the differences between the behaviours and risks for small/micro-businesses and larger businesses we think Ofgem should consider introducing separate SoC for each. Even if these were the same initially this could enable the regulator to act more flexibly in future, and allow different protections for different sized business consumers, just as there are differences between domestic and microbusiness SoC today.

We also believe that there needs to be continued focus on whether the SoC is being consistently applied by suppliers. Our data shows that the SoC is not always being followed and Ofgem's own research shows that the majority of complaints suppliers

receive concern activities that already fall in scope of the SoC.⁶ We're particularly concerned by cases related to inaccurate billing and debt where customers have been treated unfairly.

Case Study:

Priya's* supplier has sent her a back bill for £12,000 for one year's usage. Priya has submitted regular meter readings, which have been incorrectly registered as higher by her supplier. The supplier is now pursuing her for debt based upon the incorrect meter readings. The supplier has since removed all meter readings and past bills from Priya's account, and is continuing to pursue her for debt, and is threatening to disconnect her if she doesn't pay.

Case Study:

Matthew's* supplier sent him a bill for £130,000, which is much higher than his usual expected bill. He spoke to his supplier who agreed to cancel the invoice, and sent him written confirmation that they had done so. However, he has since received further contact from his supplier pursuing him for the money, and threatening to disconnect him if he does not pay.

*names changed in all case studies to protect anonymity.

Ofgem should work closely with suppliers to ensure that they are complying with the SoC and adapting their customer services to take account of these rules. Ofgem should also be open to considering whether additional consumer protections for micro and small businesses are needed in the future, whether through the SoC or other SLCs.

Q4. Do you have any comments on our proposed draft licence text for SLC 0A?

No comments on the draft licence text for SLC0A.

Q5. Do you agree with our proposal to implement the SoC as soon as the updated licence condition takes effect? Please provide a reason for your view.

We agree with Ofgem's proposal to implement the SoC as soon as the updated licence condition takes effect, meaning that the implementation would take place in

⁶ Ofgem (2023) [Non-domestic market review: findings and statutory consultation](#)

Spring-Summer 2024. We agree that it's important that obligations to treat non-domestic customers fairly are brought in as soon as possible.

There is a risk that some small businesses will experience a protection gap: Citizens Advice will not commence our statutory function for this group until the passing of Ofgem's proposed changes to the Complaints Handling Standards (CHS) regulations, which have a longer lead-in time than the proposed changes to the SoC.⁷ This means that, should a small business experience a breach in the SoC, they will not be able to access our Consumer Service to get advice. They will also not be able to access the Energy Ombudsman services until the [Redress Scheme Order](#) is amended at the same time.

However, the risk of this occurring is low, and will impact only a small number of consumers. Introducing the SoC early will enable suppliers to begin reviewing consumer service policies and processes early, laying a foundation for the later changes to the CHS. In addition, small businesses will still have access to our non-statutory advice. Considering that small businesses have similar advice needs to microbusinesses, the existing information available on our website will likely be useful to them.

Q6. Do you have any views on the updated draft Standards of Conduct guidance?

N/A. We have previously responded to Ofgem's draft update to the Standards of Conduct guidance.

4. Complaints Handling Standards

Q7. Do you agree with our proposal to align with government proposals and expand the Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008 (CHS) to apply to Small Business Consumers? Please provide a reason for your view.

Citizens Advice is supportive of Ofgem's proposal to extend the Complaints Handling Standards (CHS) regulations to small business consumers. We agree with Ofgem's assessment that small businesses currently experience poor outcomes in the energy retail market, partially due to an absence of a consistent benchmark for complaint handling standards. The CHS will ensure that small businesses access uniform

⁷ Ofgem (2023) [Non-domestic market review: findings and statutory consultation](#)

complaints and recording processes, ultimately enhancing their experiences in the retail market, and increasing the likelihood of a just resolution.

Expanding access to the CHS will also raise awareness of the Standards themselves across the non-domestic sector. Currently, small and microbusiness consumers are unlikely to contact their supplier, even when they encounter a problem, and are often unaware of the support that is available from services like Citizens Advice.⁸ If consumers know that there are clear, consistent procedures for addressing complaints, then they may be more likely to contact their suppliers when issues arise. Improved communication between suppliers and consumers often ensures the early resolution of issues and increases trust.

For this measure to be fully effective, suppliers must ensure they follow the requirements of the CHS. Our Consumer Service data suggests that there is wide variation in how effective non-domestic supplier complaints handling procedures are. The below case study from our Consumer Service provide some examples where it is clear that a Complaints Handling Procedure is not being followed as expected:

Case Study:

Connor's supplier did not pass along the reduced energy costs from the government's Energy Bill Support Scheme to his bill. He raised a complaint with the Energy Ombudsman, and is waiting on a resolution. In the meantime, his supplier has disconnected Connor from his energy supply as he has not paid the disputed bill. The supplier has stated that they will not put him back on supply until he has paid his bill. Connor has vulnerable customers who rely on his business, and cannot afford to be off supply for long.

While expanding the CHS will help raise the bar for small businesses, Ofgem should consider whether the CHS are functioning effectively, and if not, whether further, targeted protections are required. For example, we have worked closely with Ofgem to demonstrate where additional protections around debt and disconnection processes would be helpful for consumers and have contributed to the development of a good practice guide on billing. We look forward to working with Ofgem to continue to assess whether additional consumer protections for small and micro businesses may be needed in the future.

⁸ Ofgem and Citizens Advice (2021) [The impact of COVID-19 on microbusinesses: longitudinal research](#)

Q8. Do you have any further comments on the proposed drafting of the CHS Statutory Instrument text?

We note that in the CHS Statutory Instrument text, the consumer advocacy body in Scotland is referred to as 'Citizens Advice Scotland'. This should be amended to reflect that Advice Direct Scotland (ADS) is now the Scottish consumer advocacy body.

We note that in the CHS Statutory Instrument text, 'consumer advocacy bodies' are defined as 'Citizens Advice or Citizens Advice Scotland'. The 'consumer advocacy bodies' are referred to throughout the CHS document to underpin a number of different arrangements.

Since the document was last amended there have been a number of changes to consumer advocacy, advice and support is delivered across GB:

- Citizens Advice is the consumer advocate for energy policy matters across Great Britain, and provides first tier energy advice to consumers in England and Wales via the Citizens Advice Consumer Service.
- Consumer Scotland is the new statutory, independent body that advocates on behalf of consumers and represents consumer interests in Scotland. Advice Direct Scotland provides first tier energy advice in Scotland. These roles were previously delivered by Citizens Advice Scotland.
- Citizens Advice Scotland continues to provide second tier support and complaint handling to consumers in vulnerable circumstances across GB, through their Extra Help Unit. Most referrals to this service are sent via the first tier advice provided by Citizens Advice Consumer Service and Advice Direct Scotland.

The CHS should be updated to reflect these changes, in line with similar changes that were made to the Consumers, Estate Agents and Redress Act following the creation of Consumer Scotland.⁹

All relevant parties should be consulted before any changes are made to ensure these changes are appropriate to the tasks delivered by each organisation, and there are no unintended consequences that impact existing services provided to consumers.

Q9. Do you have any comments on the proposed implementation timeline of 3 months from the date of decision?

The amendment of the CHS regulations will instigate the expansion of Citizens Advice's remit to include small businesses, as well as microbusinesses. To ensure this transition is successful, our Expert Advice, Consumer Service and Content teams will need to undertake a significant volume of preparatory work. Should there be no adverse

⁹ [The Consumer Scotland Act 2020 \(Consequential Provisions and Modifications\) Order 2022](#)

circumstances such as we saw with the pandemic or energy price crisis, then the implementation timeline of 3 months will be adequate to complete this work.

However, it should be noted that the implementation of the SoC expansion will occur some months before the CHS expansion. Citizens Advice may be able to provide advice and information to small business consumers in these months, but we will not yet be able to carry out any of our new statutory functions for small businesses, such as setting up case referral pathways with suppliers.

5. Signposting to relevant customer support services

Q.10 Do you agree with our proposal to require suppliers to inform their Micro and Small Business consumers (if this is applied) that they can access, and how to contact, Citizens Advice and Citizens Advice Scotland? Please provide a reason for your view.

Citizens Advice strongly agrees with Ofgem's proposal to require suppliers to inform their micro and small business consumers that they can access, and how to contact, Citizens Advice and Advice Direct Scotland. We agree with Ofgem's assessment that ensuring small business consumers are signposted to Citizens Advice will allow them to access appropriate advice at an earlier stage of their issue. Our Consumer Service data shows proportionally lower volumes of contacts from microbusinesses compared to domestic consumers, often because non-domestic consumers are not aware of our role. Increased signposting from suppliers will raise awareness, and hopefully lead to an increase in clients using our services.

As stated elsewhere in the consultation, it is well established that small businesses experience similar issues to microbusinesses when engaging in the energy market.¹⁰ Small businesses would therefore benefit from the same types of advice and support, such as those offered by Citizens Advice. We are not able to track consumers that we do not help, but anecdotal evidence suggests that Consumer Service advisors have often needed to turn away small business consumers seeking advice, as they are not eligible for our services. These points have informed our decision to support Ofgem's proposal that will require suppliers to signpost to Citizens Advice and Advice Direct Scotland.

We note that, in Ofgem's consultation, several stakeholders fed back that both Ofgem and Citizens Advice could do more to help increase awareness of our advice services to

¹⁰ Ofgem (2018) [Micro and Small Business Engagement Survey 2018](#)

consumers. We look forward to working with suppliers and Ofgem to explore different ways of raising our profile amongst micro and small businesses consumers.

Q11. What measures would suppliers intend to take to meet the obligation to signpost Small Business Consumers to Citizens advice and how would this impact costs?

We have developed a suggested signposting wording that we share with suppliers, that describes our service in a clear and concise manner. Through our engagement with non-domestic energy suppliers, we are also aware of good practices in signposting that other suppliers may wish to adopt.

One example of signposting good practice is to provide information via a range of formats. We know that this is beneficial for consumers, as people engage with services in different ways.¹¹ While we acknowledge the importance of suppliers being able to choose how to comply with this SLC, we suggest that suppliers ensure this information is available on both customer bills and their website contact pages. Having the information available in multiple places will increase consumer awareness and improve accessibility. It could also have the additional benefit of reducing suppliers' own contact levels, as some consumers might find out the information they need from our website or advisors.

Some stakeholders have expressed concerns that customer bills already have a lot of information on them, and that adding more may reduce the likelihood that consumers engage with the bill. While we recognise this concern, Citizens Advice still considers it appropriate that signposting information be included on bills in some form, given that this is a key trigger point for consumers to encounter issues like bill confusion or backbilling, that leads them to require advice on how to resolve their problem. Small and microbusiness consumers are a disengaged consumer group, and the bill is often the only point of contact a customer will have with their supplier.¹² It is suppliers responsibility to ensure that bills remain engaging and useful for their customers.

¹¹ Citizens Advice (2022) [Access Denied Digital disadvantage and exclusion in the energy market](#)

¹² Ofgem and Citizens Advice (2021) [The impact of COVID-19 on microbusinesses: longitudinal research](#)

Q12. Do you have any comments on our proposed draft licence text for SLC 20.5A and 20.4A in the gas and electricity supply licences respectively? The proposed definition of Small Business Consumer includes microbusiness consumers. However, do you think it would be preferable to explicitly set out in the licence condition that suppliers should signpost Micro Business Consumers and Small Business consumers to Cit.A for the avoidance of doubt?

Ofgem's amendments to SLCs 20.4A (electricity) and 20.5A (gas) state that "the licensee must keep each of its Small Business Consumers informed". In both cases 'Small Business' is inclusive of micro business consumers. Citizens Advice recommends amending the wording to separate Micro and Small business consumers. This will reduce confusion and bring the wording more in line with the CHS, which lists 'relevant consumer' and 'small business' separately.

An additional improvement to the relevant licence conditions could be to provide more specificity about the form and frequency at which information is provided. For example, SLCs 20.4A (electricity) and 20.5A (gas) could align with the language used in the domestic SLC 31G. SLC 31G states that the licensee must ensure that each customer is "provided with information in a form and at a frequency that is sufficient to enable the Domestic consumer to quickly and easily understand [...] how to seek impartial advice from Citizens Advice consumer service." We believe that this specification, together with the requirement to provide advice annually, will help to ensure suppliers design clear signposting to our services.

Requirements around 'form and frequency' are already used in relation to non-domestic customers in other areas, including SLC 51.27. This language also aligns with overall requirements in the non-domestic SoC to provide information in 'plain and intelligible language with more important information being given appropriate prominence'.

Q13. Do you agree with our proposed implementation timeframe of 3 months from the date of our final decision?

Citizens Advice is supportive of the proposed implementation timeline of 3 months from the date of the final decision, but only if this continues to align with the expansion of the Complaint Handling Standards.

As outlined above, we will only be able to offer small business consumers full access to our services once the CHS have been amended. Until these are in place, we will only be able to offer general advice through our website. If there is a delay to the expansion of the Complaint Handling Standards, then we recommend that the requirement on suppliers to signpost to our services is also delayed.

6. Third Party Intermediary redress scheme membership

Q14. Do you agree with the proposed change? Please provide comments to support your answer.

Overall, Citizens Advice is very supportive of expanding current rules to ensure that small business consumers working with TPIs have access to a Qualifying Dispute Settlement Scheme (QDSS). As noted in our responses to Ofgem's previous consultations, we agree with their assessment that small businesses face similar challenges to microbusinesses when working with TPIs. They also face similar barriers to achieving redress, as small businesses are also less likely to be able to afford legal support when issues arise. Allowing small businesses access to a QDSS will undoubtedly improve outcomes for consumers seeking redress, where previously they could not afford to do so.

We also agree with Ofgem's assessment that aligning the customer employee numbers with those utilised by the Energy Ombudsman and FCA will improve clarity for consumers.

However, as outlined in previous consultation responses, Citizens Advice remains concerned that while TPIs are unregulated, there may be limitations to the benefits small businesses can reap from redress schemes.¹³ As outlined in our report 'Stuck in the Middle', this is because TPIs are not required to meet any of the licence conditions that a supplier has to follow, or the CHS.¹⁴ The absence of these sector-specific obligations means that it could be hard for a QDSS to obtain the information they need to resolve a dispute, or to prove that any wrongdoing has occurred. Citizens Advice recognises that the regulation of TPIs is not in Ofgem's current remit, but we would like to use this opportunity to highlight again the need for Government action in this area.

Q15. Do you agree with the wording of the proposed licence condition changes outlined in Appendix 1?

Overall, Citizens Advice agrees with the wording of the proposed licence condition changes outlined in Appendix 1.

¹³ Citizens Advice (2023) [Citizens Advice response to Ofgem's Call for Input on the Non-Domestic gas and electricity market](#)

¹⁴ Citizens Advice (2020) [Stuck in the Middle: How to improve protections for people using energy third party intermediaries](#)

Q16. Do you have any comments on the suggested implementation timescale of 8 months.

We agree with Ofgem's assessment that 8 months will provide TPIs and suppliers sufficient time to undertake preparatory actions.

7. Third Party Intermediary service fee transparency

Q.17 Do you agree with our proposed expansion of Third Party Cost transparency to all Non-Domestic customers? Please explain your answer.

Citizens Advice agrees with the proposed expansion of Third Party Cost transparency to all non-domestic consumers. However, as with the expansion of the Standards of Conduct, we recommend that Ofgem build in the capacity for these regulations to be applied differently for businesses of different sizes. It is likely that further regulations for TPIs will be developed in the future, and we expect small and micro businesses to require different levels of consumer protections within this framework. Allowing for cost transparency requirements to apply differently will make it easier to develop any additional, targeted protections that may be deemed necessary in the future.

Regarding the current proposed expansion, Citizens Advice is not best placed to comment on whether additional consumer protections around TPI engagement would be beneficial for larger businesses. However, for small and micro businesses, we strongly support better transparency around TPI fees, due to the importance of TPIs to many micro and small businesses' engagement in the energy retail market.

In 2020, 67% of microbusiness customers who switched suppliers used an energy broker to do so.¹⁵ However, research produced by Ofgem showed that less than 15% of small and microbusiness consumers were aware that they were paying a service fee to TPIs at all.¹⁶ Further, our Consumer Service data shows that issues with TPI transparency remains a problem for many microbusiness consumers. In 2023, Citizens Advice received 1,284 cases through our Consumer Service related to non-domestic contract issues, mis-selling, and energy broker issues. This represents 21.3% of all non-domestic cases dealt with by the Consumer Service in 2023.

¹⁵ Ofgem (2018) [Micro and Small Business Engagement Survey](#)

¹⁶ Cornwall Insight and Citizens Advice (2019) [The role of Third Party Intermediaries \(TPIs\) in the GB SME and microbusiness energy supply sector](#)

Case Study:

Michael owns his own business, and believes he was mis-sold his energy contract for his business. A broker quoted him prices he thought were good, but when he received the contract, the tariff prices were 2-3 times higher than he was quoted. Michael does not speak English well, and feels the broker took advantage of this to mis-sell his contract.

It's clear that the current regulatory environment leaves room for poor practice, and is leading to large amounts of consumer detriment. The expansion of Third Party Cost transparency will help prevent TPIs providing misleading figures, as the customer will be able to view the unit cost that they are being charged. Increased TPI fee transparency will be particularly important for smaller non-domestic consumers, as micro and small businesses are likely to have less capacity to dedicate to understanding the breakdown of their energy bills and detect mis-selling or poor practice than large businesses.

Q18. Do you agree with our proposed methodology of displaying Third Party Costs?

Displaying Third Party fees as a cost per unit is more transparent than presenting it as a lump sum. Whilst it might appear a more simple option, the current lump sum arrangement has led to difficulties for microbusiness customers as the cost is harder to interrogate. We regularly receive contacts to our Consumer Service from consumers who have been mis-sold or misled when it comes to the prices they expect to pay for their energy, or what fees they are paying to TPIs for their broker services.

Microbusiness consumers are not always aware of what they are paying to TPIs, or aware that they are paying a service fee to TPIs at all.

Feedback from stakeholders suggests that this issue arises on the part of unscrupulous TPIs. They are able to manipulate the lump sum fees to make them seem smaller, by deliberately underestimating expected energy usage. Lump sum costs can also vary depending on the length of the contract offered, which makes it hard for customers to meaningfully compare TPI service fees, and can lead to customers accepting unsuitable contracts. A cost per unit explanation of costs, where third party fees are presented as part of the unit price of energy or as part of a daily standing charge is a more transparent way of displaying energy costs. This is less susceptible to manipulation by unscrupulous brokers, and will enable consumers to compare providers and brokers with more accuracy.

We therefore agree that displaying Third Party fees as a cost per unit via a customer's energy bill is an effective way to disclose TPI fees, and recognise that this will be beneficial for all non-domestic consumers, regardless of size. We also recognise that there is value in presenting the fees via lump sum for microbusiness consumers, and agree with the proposal that these details must be provided in the microbusinesses' Principal Terms and on Request. However, due to the risks of a loss of transparency when displaying the costs via a lump sum, we do not agree that this should be the only way that fees are presented on a microbusiness consumer's bill. Instead, micro and small business consumers' bills should utilise both a lump sum and per-unit method of displaying costs. This will aid both transparency and understanding, as long as there is clear information on how the lump sum has been calculated.

It is also important to note that, regardless of how TPI fees are displayed, all communication regarding fees must be presented in clear language which is understandable by consumers who are not energy experts. Clear explanations of what cost per unit charges mean should be readily available on supplier's websites, and it is important that customer service staff are appropriately trained and easy to contact should consumers have questions. Additional needs should be taken into account when thinking about how these fees are presented to consumers, for example, communicating these changes via post, or in large print on request. Ensuring easy access to this information will increase transparency.

Q19. Do you agree that our proposed timescale for implementation is achievable? Please explain your answer.

Citizens Advice believes that the proposed timeline of 6 months for implementation of these changes is achievable.

Q20. Do you have any views on whether to retain the presentation of a lump sum for microbusiness consumers and to have only a cost per unit for all Non-Domestic consumers?

Considering the benefits and risks of delaying fee costs in a lump sum format, Citizens Advice recommends utilising both formats for micro and small business consumers, or providing consumer with the ability to choose which format works best for them.

We do not agree that microbusiness consumers should only be presented with fee costs in the form of a lump sum, without the option to change this to cost per unit. This is because, as highlighted by Ofgem in their consultation, the lump sum format of displaying energy costs is vulnerable to manipulation. A common theme within our Consumer Service cases is that a customer has been charged more than expected, and is trying to dispute this. Providing consumers with the cost per unit - while initially more

complex-looking - could reduce the likelihood of this kind of query occurring. The cost-per-unit method is less susceptible to manipulation and will provide clarity for consumers. It will also enable them to make meaningful comparisons between TPIs and suppliers.

Ideally, consumers would be presented with costs via a lump sum and in a cost-per unit format, or be given the choice between the two. If the presentation of a lump sum is retained in some format, we also recommend that this is applied to micro and small business consumers. This will maintain continuity with other protections such as the expansion of the CHS, and reduce the potential for confusion. The benefits of a lump sum presentation - that this is easier for consumers to understand - also apply to small business consumers.

Q21. Do you have any views on the proposed wording of the supply licence?

Citizens Advice has no further views on the proposed wording of the supply licence conditions.

8. Next Steps

Q22. Do you have any other comments on our proposals not asked specifically elsewhere in this document?

Section 1.2 of this consultation response outlines our response to Ofgem's additional work. Otherwise, there are no further comments.