

# Review of Ombudsman Services:Energy

## Background

The Consumers, Estate Agents and Redress Act 2007 (CEARA) required the Authority to approve a redress scheme in the energy sector. Following consultation, Ofgem published the criteria<sup>1</sup> that any prospective scheme should meet and invited applications. The Ombudsman Service Limited (now known as Ombudsman Services) submitted an application and was approved by the Authority to provide the single statutory redress scheme (Ombudsman Services:Energy) in the energy sector from 1 October 2008. As part of the approvals process Ofgem committed to undertaking an independent review of the scheme after 12 months and as necessary thereafter. The first review, published in April 2010<sup>2</sup>, identified a number of areas where the scheme needed to make improvements in order to meet the scheme criteria in full.

## Recent developments

The number of consumers taking their unresolved complaint to the Ombudsman Services:Energy (OSE) has increased markedly in recent years, most notably in 2014 when they received over 53,000 cases compared with circa 18,000 in 2013. Whilst much of this rise has been driven by the billing problems experienced by two suppliers in particular, numbers are expected to remain high. It is likely that the energy matters will remain in the public eye, and the measures taken to increase the number of consumers using OSE as a result of Ofgem's research<sup>3</sup> will also have an impact on volumes. The increase in complaints has impacted on the handling of cases by OSE and the achievement of their key performance indicators.

OSE plays a key role in the complaints journey, providing timely and effective redress for consumers when they remain dissatisfied with their energy company. Ofgem has closely monitored the performance of OSE to ensure that it meets consumers' expectations. We continue to play a proactive role in its oversight, receiving monthly and quarterly performance data, maintaining a regular dialogue at an operational level, and formal meetings at Partner, Senior Partner, and Chairman levels. We are also a member of the Ombudsman's Consumer Panel which meets every six months to share information with consumer representatives.

Ofgem has discussed a number of issues with OSE in recent months. These have focussed on key areas designed to drive improved performance from OSE and participating companies. They have included ensuring that the Ombudsman's funding model places appropriate incentives on companies to deal effectively with complaints, the accuracy of participating companies' forecasting, the timely implementation of OSE's

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<sup>1</sup> Approval criteria for redress schemes in the energy sector:

<http://webarchive.nationalarchives.gov.uk/20080806055225/http://www.ofgem.gov.uk/Markets/RETMKTS/COMPL/CONSREP/Documents1/Redress%20Schemes%20Decision.pdf>

<sup>2</sup> Energy Ombudsman Review: <https://www.ofgem.gov.uk/ofgem-publications/57620/independent-review-energy-ombudsman.pdf>

<sup>3</sup> Complaints to Ombudsman Services:Energy: <https://www.ofgem.gov.uk/publications-and-updates/complaints-ombudsman-services-energy-%E2%80%93-research-report>

remedies, and how OSE might better use the information at its disposal to drive improved company performance.

The ADR Directive requires the Authority as Competent Authority to approve redress scheme(s) to be ADR Entities in the energy sector. The Ombudsman will seek approval to be the ADR Entity.

In the light of recent developments we consider that it is the right time to review the Ombudsman scheme against the requirements of its approval under CEARA to ensure that it continues to provide a timely and effective means of redress for consumers. We intend that the same requirements will apply for both the ADR Entity and the Ombudsman scheme approved under the 2008 criteria.

### **Purpose**

To review the operation of the statutory Ombudsman scheme against the criteria on which it was approved under CEARA, current best practice, and the requirements of the Regulations implementing the ADR Directive. The review will also consider reporting relationships between OSE and Ofgem.

### **Scope**

To carry out a review of how the statutory ombudsman scheme is working. The review should examine but not be limited to, the following key areas:

- Governance in its function as the energy ombudsman;
- Businesses compliance with decisions;
- Case management/performance; and
- Identification of, and action on, regulatory and wider issues.

To identify any areas where the scheme criteria should be changed or amended, and recommend improvements to the Ombudsman processes by reference to the CEARA approval criteria, the requirements of the regulations implementing the ADR Directive, and current best practice. The latter may include, but not be limited to, recognised national and international standards for dispute resolution, and other national Ombudsman schemes, noting that Ombudsman Services is not established by statute.

### **The requirement**

The work which we require to be undertaken is designed to determine how and to what extent the Ombudsman is meeting key elements of the CEARA criteria on which it was approved, and recommend the improvements which may therefore be necessary.

The review should examine, but not be limited to:

- whether the scheme is performing in accordance with the governance criteria for the scheme
- whether participating companies are complying with the decisions of the Ombudsman, and the effectiveness of Ombudsman's mechanisms for ensuring that they do so, including assurance with customers
- whether there is effective management of cases from start to finish of the process including effectiveness and frequency of quality assurance monitoring
- whether the indicators in place for measuring performance are appropriate and benchmarked against other comparable services
- whether there are mechanisms in place to identify systemic issues and potential breaches of regulatory requirements by participating energy companies
- whether there are mechanisms in place to identify, and take action, where participating companies' service standards, processes, and policies can be improved, including whether there is evidence of any changes having been recommended to improve service

The review should make recommendations on the improvements that should be made:

- if the scheme is not meeting the relevant CEARA criteria
- if the scheme criteria needs to be improved by reference to best practice or ADR regulations or amended to provide greater clarity
- if Ombudsman processes need to be improved by reference to best practice
- if further development of performance indicators and quality monitoring is required to drive performance
- to the Ombudsman's Terms of Reference, Articles of Association, and Memorandum of Understanding with Ofgem

### **Timing**

The final report, agreed with Ofgem, should be provided by 30 June 2015.