

## **EXCHANGING AND DISCLOSING INFORMATION**

A description of the working arrangements agreed by:  
the Gas and Electricity Markets Authority  
and the Gas and Electricity Consumer Council

## Introduction

This is one of two documents produced to support the Memorandum of Understanding between the Gas and Electricity Markets Authority (referred to as the 'Authority') and the Gas and Electricity Consumer Council (referred to as the 'Council') and sets out the arrangements for the disclosure of and exchange of information agreed between the two bodies.

It has been prepared in accordance with the statutory duties of each body under Parts II and III of the Utilities Act 2000 and is subject to the provisions of the Data Protection Act 1998. It will be reviewed not less than every two years and at other intervals as necessary and amended accordingly with the agreement of the Authority and the Council. Either body can instigate a review of this document when it considers a review to be appropriate.

## General Principles

Both the Authority and the Council are committed to ensuring that the interests of consumers of gas and electricity are protected. The Authority and the Council need to have access to information held by each other in order to make fully informed decisions, and to provide appropriate and accurate opinions, policies and advice. Information concerning the investigation of individual consumer complaints and enquiries is covered in a separate document.

Each organisation will, as soon as practicable once a request is received, provide the information deemed necessary for the other to effectively carry out its duties and functions in accordance with their statutory provisions. Where the information cannot be provided, reasons why it cannot be provided will be given.

The Authority and the Council will have regard to gathering information in a way that minimises the administrative and cost burden for those providing it. To this extent, every six months the Authority and the Council will consult each other to determine information that will be required on a regular basis, for example, information relating to Codes of Practice, Standards of Performance, and Energy Efficiency targets. In addition they will approach each other first to seek information before approaching companies.

The Authority and the Council will give written notice, wherever possible, for requests for information and will co-ordinate requests to avoid duplication. All written requests will be actioned within 10 working days of receipt, unless required earlier when a timescale will be agreed. In the event either body is unable to provide the information within the timescale they will inform the other body within 2 working days of receipt of the request.

The Authority and the Council may use the same source data to meet requirements for the publication of information for consumers on issues such as the levels of performance, energy efficiency obligations and complaints' statistics for gas and electricity companies. However, it is envisaged that the Authority and the Council will want to publish information in different formats, even though the data is derived from the same source. Therefore, the Authority and the Council agree to consult on the publication of such information as required in the Act and any secondary legislation.

### Exchange of information

At monthly intervals the Authority and the Council will seek advice from each other on significant developments. The advice will relate to gas and electricity customers in respect of which any of the Authority's' or Councils' functions may be exercisable. Such advice may refer to trends in complaints and enquiries and the levels of performance of companies in dealing with consumers.

The Authority and the Council agree to brief each other at the earliest opportunity about any regulatory decisions, publications or consultations they are considering, especially those matters which affect consumers who are disabled, chronically sick, of pensionable age, on low incomes or living in rural areas. The Authority and the Council will ensure that a named person is nominated to notify the respective organisation of such decisions or publications.

### Information provided to the Authority

The Council has a duty to inform the Authority about any matter that appears to be an enforcement matter, that is any matter in respect of which any of the Authority's enforcement functions are or may be exercisable. Once the Council has concluded that the matter appears to be an enforcement matter, it will provide the Authority with all relevant information, within 2 working days of receipt or within 2 working days of the Council becoming aware of any enforcement matters.

In order to facilitate the Council reaching a view as to whether the matter is an enforcement matter, the Council may consult the Authority on the general circumstances of a particular case, without disclosing confidential information.

The Council will provide the Authority with direct access to statistical information relating to any of the Authority's statutory functions.

The Council recognises that in particular circumstances the Authority may require additional information that it does not have direct access to. Subject to the restrictions set out in Regulations, and having regard to any secondary legislation, the Council will provide the Authority with the relevant information the Council may have relating to any of the Authority's functions. This information will be provided within 10 days of receipt of the request. If the Council is unable to provide the information within the timescale they will inform the Authority within 2 working days of receipt.

## Information provided to the Council

The Authority will provide the Council with direct access to statistical information relating to any of the Council's statutory functions.

The Authority is able to set standards of performance for gas and electricity companies and to require companies to provide information for customers and potential customers in respect of the standards. In addition companies may be required to provide the Authority with information relating to energy efficiency targets. The Council is required to monitor and publish statistical information relating to the levels of performance of companies in respect of the standards of performance and energy efficiency targets. Therefore, the Authority will provide the Council with direct access to statistical information relating to the standards and obligations.

Gas and electricity companies are required to produce and adhere to certain Codes of Practice. The Authority will provide the Council with direct access to statistical information relating to levels of performance of gas and electricity companies in respect of the Codes of Practice.

The Authority recognises that in particular circumstances the Council may require additional information that it does not have direct access to. Subject to the restrictions set out in Regulations, and having regard to any secondary legislation, the Authority will provide the Council with relevant information the Authority may have relating to any of the Council's functions. This information will be provided within 10 working days of the request received. If the Authority is unable to provide the information within the timescale it will advise the Council within 2 working days of receipt. If the information required is not already held by the Authority, agreement will be reached on whether the Authority will request the information on the Council's behalf or whether the Council will seek it directly from companies.

## Refusal of information

The circumstances when the Authority and gas and electricity companies may deny the Council access to prescribed types of information is set out in regulations.

In the event the Authority and the Council disagree on the provision of information either body can refer the matter to the Independent Information Arbiter, once appointed, for a view.

## Disclosure of information

The Authority and the Council aim to minimise the restrictions on access to information from each other. However, statutory requirements and regulations impose restrictions on the disclosure and publication of information. The Authority and the Council agree to develop a common understanding of these restrictions and to publish the agreed understanding as an appendix to this document.

## Distribution

A copy of this document has been sent to the Secretary of State, so that he may lay it before each House of Parliament. It is also available, free of charge, to consumers and any other interested parties, upon request.

## Contacts

Should you require further information on this or any other working level document please contact either Lesley Davies at GECC Hub or Nikki Abraham at Ofgem.

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