



Energy complaints and the Energy Ombudsman

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This short note outlines complaints routes against energy companies.

It also outlines the roles of Ofgem, the Energy Ombudsman, and of Consumer Focus, which is about to be abolished. It explains the (limited) routes of further appeal once the Energy Ombudsman has made a final decision. Finally, it explains the planned complaints arrangements and code of practice for the forthcoming Green Deal.

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1 Energy industry regulation

1.1 The role of Ofgem

Ofgem is the successor to Ofgas and Offer, the regulators created when the gas and electricity industries were privatised. To be precise, the Gas and Electricity Markets Authority (GEMA) is the regulatory authority that takes decisions, but it is supported by Ofgem (the Office of Gas and Electricity Markets) as its operational arm, i.e. the large office of people in the same building who actually administer and support energy regulation.

The main Acts under which Ofgem/GEMA operate are the Gas Act 1986 and Electricity Act 1989, but these have been amended several times, for instance by the Utilities Act and recent Energy Acts. Under these Acts, Ofgem sets the licence conditions under which energy companies must operate. The Acts also give Ofgem a duty to promote the interests of current and *future* customers, giving it a 'sustainability' role.

It is important to recognise that Ofgem looks after customer interests primarily through promoting competition, and it is *not* a watchdog type body with a consumer protection role in investigating individual cases.

However, on 23 September 2012 the Energy Secretary announced that Ofgem would receive the powers, when fining energy companies, to force them to pass this back to consumers as compensation, rather than passing any fines to HM Treasury.¹ This can already be done but only by voluntary agreement with the energy company concerned.

Ofgem does have duties to have regards to the interests of vulnerable customers, and it does this through, for example, obligations on energy suppliers to have special schemes for such groups. It regulates the energy market, and regulates the amount that gas and electricity companies can charge to transport (transmit or distribute) energy, and therefore have to invest in infrastructure. It does not currently however limit the final ('supply') charges that energy supply companies can charge their domestic customers, relying on competition in the supply industry instead to keep these down.

1.2 Off-grid customers

It is helpful to think of Ofgem as regulating the 'pipes and wires'. The (off-grid) heating oil, LPG and solid fuel market is a matter for the Competition Commission and Office of Fair Trading. For example, the OFT investigated the off-grid gas market in 2011 (see the Library standard note on [Heating oil and other off-gas grid heating](#)).

However, so far as consumer complaints are concerned, really these can only be directed to Trading Standards, who do *not* have any remit to handle general high prices, the most common complaint in this sector. Nor can the Energy Ombudsman (see below) deal with LPG issues.

1.3 Abolition of Consumer Focus

While Ofgem is the industry regulator, the former National Consumer Council was the 'consumer watchdog'. It merged with Energywatch and Postwatch in 2008 to form

¹ [A better energy deal](#) DECC press notice 2012/108 23 September 2012

Consumer Focus. There is an [Ofgem factsheet](#) on the changes to the energy watchdogs that happened in 2008 but there has just been another shakeup.

[Consumer Focus](#) was given the duty to investigate issues relating to disconnection and complaints from vulnerable consumers. It publishes useful research reports into energy policy, has an 'extra help unit' for vulnerable consumers, and an Executive Liaison Unit that helps deal with Members' queries of behalf of their constituents. However, it is due to be abolished. Citizens Advice will take on responsibility from Consumer Focus for representing consumers' interests in unregulated sectors with a new, technical 'Regulated Industries Unit' for the energy and postal services sectors and their regulators replacing Consumer Focus from April 2013.²

Consumer Direct was set up as the Government helpline providing advice and information for consumers by telephone and online and to be a first port of call for complaint escalation from energy companies themselves; this role has now been given to Citizens Advice too.

1.4 The Energy Ombudsman (EO)

The [Energy Ombudsman](#) was established by the *Consumers, Estate Agents and Redress Act 2007* which allowed the Secretary of State to make orders (specifically the *Gas and Electricity Regulated Providers (Redress Scheme) Order 2008*) to require regulated providers to belong to a redress scheme approved by the relevant regulator (Ofgem).

A "Redress scheme" is one under which consumer complaints may be made to, and investigated and determined by, an independent person. The EO is independent of the energy industry, Ofgem and consumer groups. According to the [Ombudsman Service 2011/12 Annual Report](#),³ in 2011/12 the Ombudsman Service considered over 25,000 complaints. Just over 6,600 of these were about energy issues.⁴

2 How do I complain?

2.1 The set process to follow

[Citizens Advice has a page on how to complain](#) about energy companies, including details of the 'guaranteed standards' of service that energy companies should meet.

In short,

1. All the energy companies are required by Ofgem to have complaints procedures and people must contact them first to let them put things right.
2. If this reaches deadlock, or after 8 weeks, then you can complain to the Energy Ombudsman; there are time limits and this must be within 9 months of the original complaint or 6 months of receiving a letter of deadlock from the energy company.
3. Vulnerable customers may be able to get extra help complaining, via [Citizens Advice](#), who can also help with making a complaint to the Ombudsman.
4. The Ombudsman will make a decision and has the power to make energy companies apologise, explain, or pay compensation.

² See <http://www.consumerfocus.org.uk/about-us> for more background and restructuring of Consumer Focus

³ <http://www.ombudsman-services.org/downloads/OS%202012%20AR%203-7-12%20for%20web.pdf>

⁴ Source: Energy Ombudsman, pers. comm..

5. You can ask the Ombudsman to reconsider their original decision once, if you disagree with it.
6. The Ombudsman's **final decision** is the end of the process.

2.2 Appealing against EO final decisions

This is not advised. Ombudsman services are designed to be where the buck stops, as the Library notes on the [Parliamentary Ombudsman](#) and [Local Government Ombudsman](#) outline.

Note also that if the consumer does not accept the EO's final decision they lose the right to any remedy offered. The EO's own advice is:⁵

The ombudsman's final decision signifies the end of our process. The ombudsman's final decision cannot be challenged and there is no right of appeal. It is the consumer's decision whether or not they want to accept the ombudsman's final decision, we allow up to 28 days for a response. If the consumer **accepts** our final decision you have 28 days to carry out all of the actions. We will continue to work with you and the consumer to make sure that this happens. If the consumer decides **not to accept** our final decision they lose the right to the resolutions offered **but can complain in another way, to the courts for example** [emphasis added]. In this situation we have no further involvement in the complaint and the case is closed.

So in summary, someone can ask the EO to reconsider their initial decision once, but once they reach 'final decision' stage there is very little further recourse. The EO is designed to be the final arbiter, so in fact there are only three possible courses of further action:

- judicial review (not recommended because this is complex and expensive)
- giving up on the EO process and pursuing the case through other means, e.g. by the normal courts
- the other course of action is to complain about an ombudsman's standards of service, or the way the case was handled by the EO (e.g. about delays, **but not against the decision itself**).

This can be done by writing to the EO chief executive, and then if necessary to the EO's independent assessor. According to the [Ombudsman Service 2011/12 Annual Report](#),⁶ in 2011/12 the EO received 90 service complaints about its own service, 18 of which went to its independent assessor.

3 Problems with insulation or energy efficiency installers

3.1 Warm Front or work done under CERT or CESP

Work done under government insulation schemes is done by private contractors. If the scheme is called Warm Front, then a company called Carillion Energy Services administers this and the complaints procedures against local contractors are on the [DirectGov website](#). The Warm Front [complaints procedures](#) say that people first have to go through their designated 'customer manager' but then:

In some very isolated cases, there may be a time when you feel that you would like your complaint to be escalated. Carillion Energy Services has an established internal escalation

⁵ <http://www.ombudsman-services.org/energy.html>

⁶ <http://www.ombudsman-services.org/downloads/OS%202012%20AR%203-7-12%20for%20web.pdf>

procedure in place and if you do wish to speak with the Head of Customer Management, this can be arranged. If, once your complaint has been investigated in full, you feel your concerns have not been fully addressed then you can approach DECC [the Department for Energy and Climate Change] with your concerns. DECC will only investigate a complaint about Warm Front once it has been fully investigated, and closed, by the Customer Management Unit.

If the work was done under one of the other Government insulation schemes called CERT or CESP, the company may be contracted by one of the energy supply companies, who have obligations to deliver CERT and CESP for the government. In that case, consumers could contact the energy supplier and if this does not resolve the issue, matters can go to the EO.

Some local insulation schemes and grants are also promoted or paid for by the local authority, who should be alerted instead.

Problems with insulation companies or people signing up to schemes where they did not get what they expected might also be an unfair trading or trading standards matter. For example, contracts should not have [unfair terms](#), such as being unclear. [Citizens Advice](#) or a solicitor could provide advice.

3.2 The Green Deal

The Green Deal will replace Warm Front, CERT and CESP starting from October 2012. The Library standard note on the [Green Deal](#) gives more details.

The [Green Deal Framework \(Disclosure, Acknowledgment, Redress etc.\) Regulations 2012](#) set how Green Deal will operate. They deal with the authorisation of Green Deal assessors (who will assess a building regarding its current energy performance and recommend Green Deal measures), and of installers, and allow for assessor and installer certification bodies and registers of participants. They also deal with guarantees, complaints and sanctions.

The Framework regulations allow for the [Draft Green Deal Code of Practice](#).⁷ An organisation called [Gemserv](#) will be the Green Deal Oversight and Registration Body, registering assessors, installers and providers and monitoring compliance with the Code of Practice.

Adherence to the Framework regulations and terms of the Code of Practice entitles participants to use the **Green Deal quality mark** in promotions and advertising. The Code also covers sales and cold calling, and consumer complaints and dispute resolution. Several added consumer protection measures have been agreed as a result of the consultation on the Green Deal (please see the Green Deal note).

There will be a **Green Deal Ombudsman and Investigation Service**, technically separate to the general Energy Ombudsman but in practice part of the same organisation.⁸ The plan was originally to simply use the EO but this would have required primary legislation. However, the EO will also refer cases to the Green Deal service as appropriate so there will be a 'no wrong door' approach to avoid any confusion.⁹

The Code of Practice says that once complaints are made to a Green Deal provider, the complainant must be informed in writing:¹⁰

⁷ Department for Energy and Climate Change (DECC), June 2012

⁸ Source: Energy Ombudsman pers. comm..

⁹ [Government Response to Green Deal Consultation](#) DECC 11 June 2012 page 18

¹⁰ For more information see the DECC [Green Deal Code of Practice](#), page 8

- that the complaint has been received;
- of the Green Deal Provider's complaints handling procedure;
- of the Relevant Ombudsman Service; and of
- any Additional Complaints Handling Procedures.

If a person is not happy with the Green Deal provider's decision they may refer their case to the Ombudsman, so the process will be similar to that for other energy complaints.