

Licence conditions for a Code of Practice for the installation of smart electricity and gas meters: a consultation

The Information Commissioner has responsibility for promoting and enforcing the Data Protection Act 1998 (DPA), the Freedom of Information Act 2000 (FOIA), the Environmental Information Regulations (EIR) and the Privacy and Electronic Communications Regulations. He is independent from government and upholds information rights in the public interest, promoting openness by public bodies and data privacy for individuals. The Commissioner does this by providing guidance to individuals and organisations, solving problems where he can, and taking appropriate action where the law is broken.

The Information Commissioner's Office (ICO) welcomes DECC's consultation for the installation of smart electricity and gas meters and the opportunity to formally comment on the proposals. I appreciate that some of these questions are primarily aimed at the utilities providers so I have picked out the questions I feel are most relevant which should hopefully be enough to make our position clear.

4. Do you agree with our definition of sales and marketing?

There could be a risk that if we focus too much on defining 'sales and marketing' it still results in there being ambiguity of interpretation as to what the supplier can and can't do. Instead it might be worthwhile considering whether a set of generic energy advice could be adopted by all suppliers to relay at the installation visit with the offer to discuss this further another time.

We think it is entirely correct to make sure that consumers are protected from feeling pressurised from unwanted sales and marketing but we appreciate there is a balance to be achieved with supplying the consumer with information to achieve the entirely legitimate aim of energy efficiency.

The provision of an agreed set of energy advice would hopefully set a clear guide as to what the installation visit would cover and reduce possible inconsistency of practice between suppliers and the likelihood of a consumer feeling intimidated or irritated at the installation visit. The consumer could then be offered the option as to whether they want to accept the offer from the supplier to look at the range of products and services they offer in more detail.

5. Do you agree that prior written consent should be required for any face-to-face marketing and sales activity during the installation visit?

To have a requirement for prior written consent for face to face marketing is a fair and comprehensive way of ensuring that the consumer is content to receive marketing but it might be asking more than is necessary, or at very least necessary for compliance with the Data Protection Act 1998.

Following on from our response to question 5, it could be that the generic information passed on by the smart meter installation engineer, includes an option to receive advice of what specific products the supplier can offer, to help the customer achieve greater energy efficiency. In other words the option to receive sales and marketing advice could be offered at the point of installation.

The problem with writing to the customer is that there is every chance the supplier will not get a response. If that is the case, then we don't think it would be fair to presume that the consumer has consented to marketing by not responding. Face to face marketing by its nature is very likely to be intrusive, so it seems appropriate to require a clear indication that the consumer would be receptive to a visit from a supplier's sales representative but this doesn't necessarily have to be given in writing prior to the installation visit.

6. Are any other measures required to protect consumers' interests in relation to sales and marketing during the installation visit?

Above all we would hope the industry will adopt a clear and consistent approach to providing energy advice and marketing their customers. It is particularly important energy suppliers respect their customers and avoid unwanted sales and marketing contact. We hope that agents installing smart meters will not be pressurised to push particular products offered by the supplier or meet sales targets.