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Consumer consent: Consumer-focused findings

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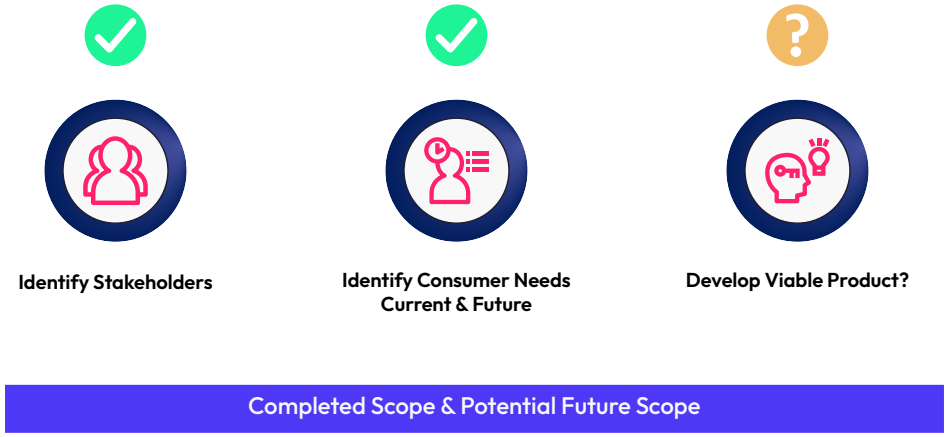
Introduction

Earlier this year we published our 2023-26 Forward Work Plan (FWP), identifying our work priorities for the coming years.

As part of this, we identified a piece of work, building on the work of the Energy Digitalisation Task force (EDiT) which identified the need for a consumer consent portal. RECCo established a step wise approach: firstly to identify stakeholders and learn from other projects (e.g. Open Banking, Mi-Data); secondly to identify consumer needs, both current and future, and what type of control consumers will need over their data; and thirdly - subject to a clear mandate or direction from industry parties or regulatory stakeholders - to develop a minimum viable product which allows the testing of consumer needs and to understand technology risks before embarking on a major technology project.

We have now completed the first two deliverables and are pleased to share our outputs.



Exec summary

To enable many future market innovations, deliver Net-Zero and reduce energy cost to the consumer, the Energy Digitalisation Task force (EDiT) identified the need for a consumer consent portal. Consumer consent is a recognised mechanism to give consumers control over their personal data and helps enable an increase in trust.

RECCo, with our responsibility for managing the Retail Energy Code (REC) which covers retail energy market activities and participants, and a strong focus for positive consumer outcomes, is well positioned to facilitate exploration across industry to help develop a consumer consent system and identify the best way forward. We confirmed this in our response to the EDiT[1], committing to a piece of work to identify key consumer personas and linked user journeys and provide an evidence base to support Ofgem and the Department for Energy Security and Net Zero (DESNZ), as they consider the EDiT recommendation of a consumer consent mechanism.

The aim of our work so far has been focused on the consumer perspective and connecting and engaging with other industry initiatives led by Ofgem, DESNZ and Innovate UK to deliver collateral which can be used by any organisation interested in supporting and developing consumer consent mechanisms for energy.

Our discovery work detailed in this paper has been approached from a 'consumer first' perspective to identify the key consent issues surrounding the complexity of energy and the household. We have identified consumer personas covering a wide population base, against core use cases for future use in a wide range of consumer consent projects. Our output is 5 key principles that we believe should be applied to the development of a consumer consent mechanism.

1 Joint BEIS, Ofgem and Innovate UK report: RECCo Response

5 key principles of a consumer consent system

1 Tell me once

Enable consumers to exercise a "tell me once, in one place" principle, so that consent is carried between suppliers when they change or utilise multiple suppliers in a future distributed and flexible energy system.

2 Trust

Provide multiple channels and routes to update consents, so that the full population can engage appropriately and have increased trust.

3 Understanding

Utilise consistent, clear, and simple language, so that consumers have the best opportunity to understand what they are consenting to and for.

4 Clarity

Clarify policy to formalise existing industry practices, with the role the bill payer has, so that the individual vs. household paradigm can be managed.

5 Verification

Provide varying identification and verification methods, to enable individual and household identification, utilising existing proven methods used in other industries.

We recognise we may not be the organisation to execute or deliver the recommended solution, but we are committed to engaging with the relevant bodies to ensure progress continues in this area as a critical component of achieving our wider Net Zero ambitions.

Wider industry context

The energy market has a regulatory framework which underpins the open, competitive, interoperable retail energy market.

It works to ensure fair and transparent data practices, through defined principles and requirements for data protection, confidentiality, and security management. This framework sits underneath the overarching general data protection regulations (GDPR), which the government is currently reviewing as part of their 'Data – a new direction' reforms.

Within the long-term policies Ofgem is developing to establish and reform this framework, there are considerations of an increased role for local energy institutions[2] and how distributed flexibility could play its part in our energy transition (including consumer distributed energy). The focus of these initiatives is understandably on the transformation of the distribution networks, exploring ways for our net zero GB energy system to have access to greater flexibility[3] which, alongside larger volumes of variable renewables, can help meet the anticipated growing energy demands and an increased use of energy-intensive products (e.g., from consumer heat and transport). Alongside this broad focus, we consider their development must go hand in glove with improvements in the retail energy sector to ensure that consumers have trust in, and are sufficiently prepared to engage with the market, to register their energy assets, and ultimately to consent to their use for flexibility[4] .

2 Part of Ofgem's recent Future of local energy institutions and governance **consultation**, awaiting decision, where they explore the case for the creation of connected, centres of excellence for regional and national network, generation, and distributed energy resource planning, freeing up the electricity distributors to focus on their network management.

3 The subject recent Ofgem's recent strategic **Call for Input** on their long-term vision for the future of Distributed Flexibility.

4 Unlocking an aggregated volume of flexibility from consumer distributed energy resources could assist our energy system flexibility, providing access to variable renewables when traditional renewables are low i.e., the wind doesn't blow, or the sun doesn't shine, for which the consumer could be rewarded for.

Key to building this trust is ensuring consumers retain control over the use of their personal data, enabling them to unlock the value of their energy data[5] when securely sharing it with trusted parties. Today, in addition to overarching GDPR protections, domestic energy consumers have rights[6] controlling the access and privacy of their Smart Meter data[7], which govern Suppliers' collection and use of remote consumption meter readings. Initially, the requirements managed consumer consents (opt-in and opt-out) related to the granularity of Suppliers access to readings for billing and marketing purposes[8]. However, Ofgem has recently extended the consent regime to include the access and use of smart half hourly meter reading data for settlements and forecasting purposes, introduced to enable Suppliers' to capture consumer choices in readiness for the upcoming move to electricity Market-wide Half-Hourly Settlement (MHHS).

The above examples have been driven by use cases and act specifically on those, not by the general need to manage consumer consent more widely. This need for a wider management of consumer consent is supported by the Energy Digitalisation Task force (EDiT) wider recommendations, which sets out the need for a consent portal.

Open banking is an often-cited example where a consumer consent system has been implemented successfully and positively resulted in use cases beyond those originally envisaged and planned. It is also worth noting the paradigm in energy is different; energy is delivered to a property which may have multi-occupants or no one living at it vs. a bank account for a person (or persons with equal rights).

A broader approach has been taken in Australia, with the Consumer Data Right (CDR)[9] regime, which is modelled on the Open Banking framework, but focused on the whole data economy for consumers. This demonstrates that the effective obtaining and managing of consent impacts more than the energy market and there may be benefits to considerations across industries, which is a matter for government or regulators to decide on.

> *"Without quality engagement and the building of trust between the energy industry and consumers, there will not be a material positive contribution towards Net Zero from the wider population and their use of energy"*
>
> Pete Davies, Director of Data, Technology and Transformation

This paper focuses on the GB energy sector and the need to create trust and consumer confidence, as this is where RECCo has the expertise and reflects the complexity identified around household vs. individual paradigm. This will allow consumers to engage confidently with the energy sector and materially support the delivery of Net Zero.

5 Explored under Ofgem's energy **miData initiative**

6 Rights set out in protections specified within energy act and set out in the Smart Data Access & Privacy Framework (**DAPF**), enshrined by government (**decision**) within the Standards Conditions of Supply Licences' – specifically Electricity **47** and Gas **41**. Enshrined by governments Department for Climate Change (DECC), with compliance managed by the regulator Ofgem.

7 Allowing consumer choice around the granularity (monthly default, daily or half-hourly) of smart consumption data collection for consumer billing and marketing purposes.

8 To enable Suppliers to better understand the energy their consumers are using, creating a more timely, detailed picture of consumption patterns, for energy billing and billing and to facilitate more detailed analysis and forecasting of consumers' future needs. Essential for involved market parties to generate, procure and deliver the energy when consumers' need it.

9 **CDR.gov.au**

Why RECCo?

RECCo is a not-for-profit, corporate vehicle ensuring the proper, effective, and efficient management of the multi-party Retail Energy Code (REC) arrangements. Under our role as code manager we operate this licence-backed energy industry code, and seek to promote trust, innovation and competition, whilst keeping the delivery of positive consumer outcomes at its heart.

Today we understand that consumers do not have control over their data. We believe enabling informed consent, particularly for the purposes for enabling Net Zero target delivery, is key to providing consumers' genuine ongoing choice and control over how their data is used, how long it is retained and who it is shared with, so they get the products and services they need or want. Fundamental markers for successful consent include requests that are accessible, concise, prominent, (unbundled from other terms and conditions), user-friendly and most importantly easy to understand.

The REC is a dual fuel (gas and electric) consumer orientated code covering all meter types and therefore all consumer types and properties. This broad coverage best ensures societal coverage. Our mission statement is to "facilitate the efficient and effective running of the retail energy market, including its systems and processes, through promoting innovation, competition and delivering positive consumer outcomes". REC and RECCo are well positioned to facilitate work to identify the best way forward for industry to develop and deliver this.

REC data and consumer consent

Data protection legislation (GDPR and DPA 2018) requires that individuals are informed about the collection and use of their personal data, which must be:

- processed fairly, lawfully and in a transparent manner;
- used only for limited, specified stated purposes and, not used or disclosed in any way incompatible with those purposes[10];
- processed under a lawful basis[11] ; contractual, public task (like the public functions set out in energy law), legitimate/vital interest, special category, or criminal offence data, or with consent.

RECCo is currently the data controller for the data within several industry services:

- Electricity & Gas Enquiry services;
- Green Deal Central Charging database service;
- Centralised Registration Services (CRS) including Central Switching Service (CSS);
- Secure Data Exchange Portal;
- Market Stabilisation Charge; and
- REC Performance Assurance.

The data sets associated with these services include personal data and are managed accordingly under data protection legislation. These include, but are not limited to, MPxNs, addresses, identified energy theft and consumer complaints.

Our analysis

10 UK GDPR 7 Key Principles

11 A Guide to Lawful Basis | ICO

We have undertaken analysis in the three key areas that are central to developing a consumer consents solution:

1. The 'individual vs. household' paradigm
2. Role-based access, identification, and verification
3. Consumer personas

1. Personal data & the home paradigm

Heat and power are needed by the whole population. Although in most cases the bill payer lives at the property, there are notable variations that need to be considered. A household could have zero to multiple residents and landlords, carers and other cases need to be taken into account. This means methods applied in other sectors, such as open banking, cannot be directly applied to the energy sector and in part explains why this sector, among other reasons, has been slow to adopt.

We have explored various household scenarios to best resolve this paradigm and concluded that the control of consumer consent (provision and withdrawal) should sit with the registered bill payer. This is primarily because the contract between the service provider and the payer exist which provides a fair, reasonable, and understood basis for services brought and this includes the data behind this service. Additionally, with contracted services, the bill payer is the named individual associated with the household who can typically provide and withdraw consent.

However, there are edge cases where the bill payer does not live in the household such as landlords who pay energy bills and receives rent from the tenants, and carers or family members managing the bills on behalf of an individual. There is also the case of shared accommodation where one member of the household is the named bill payer on behalf of the household e.g. tenants in a rented property.

We propose that in these situations, the bill payer should be required to provide visibility of consents for the household they live in. This should then be coupled with a disclaimer for the bill payer when providing or withdrawing consent that they have checked with or informed the members of the household. For example, landlords could include a clause in their contracts with the tenant to access energy data and provide on their behalf.

Today the approach of the bill payer providing consent is practiced within industry but not explicitly detailed in policy. It is recommended that the approach outlined above is made clearer in policy to enable industry to move forward with consumer consent management.

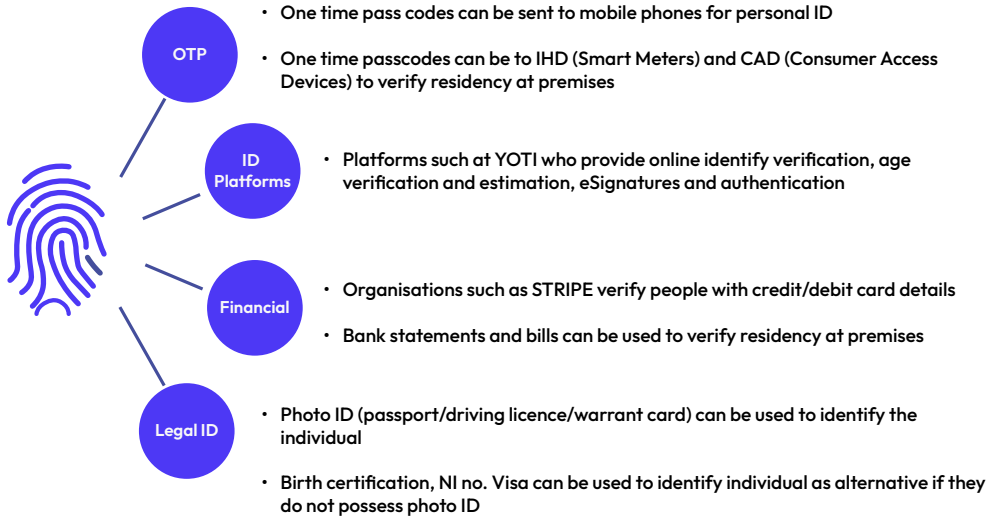
2. Role based access and identification and Verification

A centralised consent management system will be required to achieve the above - to enable bill payers to control consent states and household members to view the consent state.

A process for the identification and verification of individuals and the household they live in would be required to provide individuals with the appropriate role-based access and the provision of:

- Read access – to view what consents relate to the household the individual is living in; and
- Write access – to update the consent provided.

We have assessed a number of potential Identification and Verification (ID&V) methods against models used by other industries and companies[12] and concluded that there are sufficient existing services and methods available to achieve identification and verification (see chart).



12 Financial Services and Gaming & Gambling sectors. Payment services e.g. Stripe

3. Personas

We engaged with consumer charities, Citizen's Advice and Which? and used existing collateral from Ofgem to create a set of personas to understand the various consumer needs, wants, concerns and pain points. Our outputs were included in work completed by Zuhlke reviewing the data journey requirements and should be viewed together to create a more complete picture - Consumer Consents.

We have identified nine personas, built around a grouping of typical use cases, goals, motivators, challenges, and their typical sources of information. We then created a supportive narrative for each persona to help bring them to life. This narrative is not meant to be exhaustive or specific, only to support the reader to understand the persona better.

Identifier Name	Persona Role
Adele Alpha	Happy to give consent, just has no time
Bertie Bravo	Reluctant to give consent. Previous victim of fraud. Very sceptical
Christina Charlie	Vulnerable. Learning difficulties, physically challenged, poor eyesight, head or hearing
Durai Delta	Commercial Entity (Energy Broker)
Edwina Echo	3rd Party Debt Advice Agency
Francia Foxtrot	Environmentally sensitive
Gillian Gold	Government Agency
Henry Hotel	Apathetic
Ivan Indigo	Digitally excluded / disengaged

Analysis of these nine personas concluded in the following recommendations:

- Energy solutions must consider the complete population base – everyone needs heat and power to survive;
- The digitally excluded need to be considered, and non-digital means to managing consent need to be provided;
- Multiple channels for granting and removing consent need to be provided;
- Consumers are generally time poor and or lack the understanding around consents, therefore:
    - Language needs to be clear and consistent, around how the data will be used and protect against any creation of implicit biases from the resulted processing.
    - 'Tell me once principle' (and carry on to my next supplier) is important
    - Any digital interface needs to provide minimal friction (low number of clicks, quick load times)
    - Some consumers are concerned around security and use of their data - transparency and independently providing them control could mitigate many of these concerns.
    - A centralised source of consents would address many of the issues above, however trust is subjective and consent control needs to come through different channels (e.g. existing supplier, charity or other), not a single company.

Our conclusions

We have established that to increase industry trust and provide the best opportunity to deliver on Net Zero, we must deliver on EDiT's recommendation for a consumer consent system. We have identified the following principles as the basis of a consumer consent system:

1. Enable consumers to exercise a "tell me once, in one place" principle, so that consent is carried between suppliers when they change or utilise multiple suppliers in a future distributed and flexible energy system.
2. Provide multiple channels and routes to update consents, so that the full population can engage appropriately and have increased trust.
3. Utilise consistent, clear, and simple language, so that consumers have the best opportunity to understand what they are consenting to and for.
4. Clarify policy to formalise existing industry practices, with the role the bill payer has, so that the individual vs. household paradigm can be managed.
5. Provide varying identification and verification methods, to enable individual and household identification, utilising existing proven methods used in other industries.

These principles will be best achieved via a centralised consent system rather than a fully distributed system with multiple organisations maintaining separate consent logs or data sets. A centralised system supports 'tell me once, in one place' (principle 1) and providing consistency of language (principle 3). To deliver the multiple channels (principle 2) a level of distribution is clearly required, akin to open banking. The varying ID&V (principle 5) methods could be delivered centrally, or the obligations could distributed to the organisation providing services, however this should not be at the detriment of principals 1 and 3.

To minimise the impact and cost to parties (ultimately paid for by consumers) more material work is required to deeper engage with industry to thoroughly assess the technology options and resulting business case for change. This could be executed under an existing code body or wider government initiative (it is not only energy which requires consent information) and a decision from the regulator on who is in the lead will help the topic progress forward. As a starting point, we believe that building on the existing foundations and adapting existing processes, data, systems, services etc. should be assessed before considering new systems or approaches.

The criticality of the issue will grow over time, and it is important that the foundations are laid now to ensure there is a fit for purpose system in place as we approach our Net Zero targets. Although there are currently low volumes of consumer switching, as this increases and other consumer options and products become more prevalent, the 'tell me once' principle becomes more pertinent.

Summary

Consumer consent is integral to the delivery of Net Zero, increasing trust and enabling consumers to reliably contribute as a prosumer or consumer of energy. This work sets a foundation for a more comprehensive consumer consent mode, based on the principles we have identified, to facilitate this ambition. We have highlighted potential solutions, but these require policy intervention and deeper review in order to assess feasibility and take this work forward. On that basis, RECCo will continue to support Ofgem and DESNZ until there is a clear direction for us to progress an industry wide business case for the centralised consent system proposed in this paper.

Please provide comments and feedback to info@retailenergycode.co.uk.