

DCP 439 Working Group Meeting 06

18 July 2024 at 13:00 - Web-Conference

Attendee	Company
Working Group Members	
David Fewings [DF]	Inenco
Edda Dirks [ED]	SSE
Emma Clark [EC]	SSE
Joe Boyle [JB]	SPEN
Michael Hewitson [MH]	Trident Utilities
Peter Waymont [PW]	UKPN
Robert Mottershead [RM]	Sedulity Energy
Simon Vicary [SV]	EDF
Victoria Burkett [VB]	SSE
Chris Ong [CO]	UKPN
Georgia Preece[GP]	NPg
Donna Jamieson[DJ]	IDCSL
Code Administrator	
Andy Green [AG]	Chair
Apologies	
Hannah Proffitt [HP]	Secretariat
Ryan Farrell[RF]	NPg
Jo Brown [JB]	NGED
Jenny Harvey[JH]	NGED

1. Administration

Recording

- 1.1 The Chair asked members if they were comfortable for this Working Group to be recorded. No members objected to this request. The purpose of this recording is purely to aid the Technical Secretariat in producing an accurate report of the meeting. The recording will be deleted after 15 Working Days.

Apologies

- 1.2 Apologies are noted in the table above.

Competition Law Guidance and Terms of Reference

- 1.3 The Working Group reviewed the “Competition Law Guidance” and “Terms of Reference”. All Working Group members agreed to be bound by the Competition Law Guidance for the duration of the meeting and agreed to the Terms of Reference.

Minutes of the previous meeting

- 1.4 The group reviewed the minutes and agreed that they were accurate.

Action Log

- 1.5 The group reviewed the actions. A summary can be found in the Appendix.

2. Purpose of the Meeting

- 2.1 The Chair set out that the purpose of the meeting was finalise the review of the responses to the consultation and agree on next steps.

3. Review of Consultation Responses

- 3.1 The Chair reiterated the Working Group that there were 13 responses to the consultation and that the Working Group had reviewed the up to question 11 of the consultation responses.
- 3.2 The Chair provided a brief overview of the Working Groups conclusions for the previous 10 questions and began reviewing the final 5 questions.

Do you have any comments on the legal advice received on the limitations act?

- 3.3 6 respondents didn't have any additional comments on the legal advice received.
- 3.4 One responder stated that they did not believe the legal advice provided by the proposer addresses the issues that are created by the sudden shortening of the timescales for corrections and the mismatch that will arise between customers perception of their period of redress and the reality that suppliers will be able to support.
- 3.5 It was noted that the legal advice was provided by the DCUSA legal advisors at Gowlings and not the proposer, and that whilst the issue around the shortening of the timescale for claims to be bought

needed future discussion, that was not directly linked to the legal advice that was received from Gowlings.

- 3.6 One responder noted that the minutes to the meeting before this change was issued for consultation (Working Group 04) had captured the advice from the legal advisors that the limitations act didn't have any direct impact on whether the window for back dating gets reduced but it hadn't highlighted that the advice did go on to say that whilst it is legally sound to reduce the window for backdating tariff changes, the question then is whether that's the right, fair and sensible thing to do.
- 3.7 It was noted that this had been addressed in the minute review was documented in the minutes for Working Group 05.
- 3.8 Several responses highlighted that whilst the legal advice was technically correct, there were other questions that remained such as whether it was fair to reduce the window for backdating tariff changes and whether it was fair to expect customers to identify errors in such a small space of time.
- 3.9 The Working Group concluded that there were no comments in direct relation to the legal advice received but there are other legal call outs (in particular consumer protective law) that would need to be further considered.

Do you have any comments on the drafted legal text?

- 3.10 9 respondents had no comments on the draft legal text.
- 3.11 1 responder noted that they propose that a specific number of months rather be used in the legal text to allow the correction of errors.
- 3.12 The working group considered a fix number of months but agreed that aligning to RF future proofs this change and ensures it is consistent with the forward fixing principles mentioned previously that have been adopted by other industry changes/programmes.
- 3.13 2 responders didn't have any specific comments on the legal text itself but did state that they didn't agree with this change due to the reasons already noted around the reduction in the window customers can be refunded for errors and the additional burden that identifying errors in a shorter timescale places on customers.
- 3.14 The proposer noted that whilst the drafted legal text was fine, reference to Non-Final Demand sites will also need to be added. Additional legal text drafting was provided, and it was explained that there were 2 different versions, one if the event of DCP 433 is not approved and another version if DCP 433 is approved.
- 3.15 The Working Group agreed to the suggested additions to the legal text. The draft legal can be found in the responses to question 12 in the collated consultation responses within Attachment 1 DCP 439 Collated Consultation Responses.
- 3.16 The reasons given by those for not supporting the change ranged from how reducing the window from 6 years to align to RF would have a detrimental impact on customers who had been placed on incorrect tariffs due to no fault of their own, would lead to suppliers having to change their T's&C's to accommodate the new window.

Do you consider the solution better facilitates the DCUSA objectives? Please give supporting reasons.

- 3.17 6 respondents stated that charging objective 6 was better facilitated.
- 3.18 2 respondents stated that they believed that charging objective 2 was negatively impacted and another responder believed charging objective 6 was negatively impacted and another believed objective 3 was negatively impacted.
- 3.19 4 responders said that no objectives were impacted in any way, and another stated that they were unable to answer.
- 3.20 The Working Group agreed to revisit the objectives and draw conclusions once they reviewed the draft change report.

Are you aware of any wider industry developments that may impact upon or be impacted by this CP?

- 3.21 5 responders stated that they had no comment.
- 3.22 1 responder stated that the previous change related to backdating tariffs, DCP 173 would need to be considered.
- 3.23 3 responders noted that MHHS will have an impact on this change due to the legal text stating that the limit for backdating would be aligned to RF.
- 3.24 Another responder highlighted that DCP 412 could be impacted by this change. It was noted that DCP 412 is still in flight and the outcome/solution to this change is currently unknown but may require some consideration when the solution is known.

What date do you believe this change proposal should be implemented? Please provide rationale?

- 3.25 5 respondents stated that they didn't believe the change should be implemented so offered no date.
- 3.26 4 respondents stated April 2025 although one of these respondents initially stated April 2026 but changed their view in the Working Group when it was explained that there should be ample time to have this change approved in time for the April 2025 charging statements to be updated.
- 3.27 Two responders stated the implementation should be aligned to MHHS delivery.
- 3.28 Another responder said the change should be implemented ASAP.
- 3.29 Another respondent stated April 2026.
- 3.30 The Working Group had a majority for an implementation date of April 2025 but agreed to finalise its position when reviewing the draft change report.

Do you have any other comments?

- 3.31 7 responders had no additional comments.
- 3.32 One responder noted that DCP173 was very similar to this change and that DCP 173 was not taken forward and withdrawn. They went on to say the reasons for this withdrawal need to be discussed to see if they would also apply to this CP. It was agreed to include the withdrawal reasons for DCP 173 within the change report.

- 3.33 Another responder noted that in 2005 with the cutover to BETTA, the legacy settlement systems were run for 14 months from the last legacy settlement date i.e. 31 March 2005, so there is precedence to maintain legacy systems
- 3.34 2 responders noted that they are requirements to maintain records for 6 years for potential HMRC reasons. The proper noted that an archive to the legacy would be available to handle any HMRC, GDPR or other processes that required records to be kept.
- 3.35 Other respondents drew attention to the fact that they didn't support the change and raised concerns that had already been highlighted such as potential customer impacts if the window to backdate was reduced and the additional burdens it places on customers to identify errors sooner.

4. Next Steps

- 4.1 The Chair proposed that he would draft a change report for the Working Group to review at the next meeting with the intention of having the change ready for presentation at the August panel meeting.
- 4.2 The Working Group agreed to reconvene on Wednesday 31 July 2024 at 10am to review the change report and agree on next steps.

5. Any Other Business

- 5.1 No other business was raised.

New and Open Actions

Action Ref.	Action	Owner	Update
04/01	PW to confirm if there is a strict limitation on back dating tariffs/LLFC post migration in the new DNO billing system.	HP	Closed

Closed Actions

Action Ref.			Update
02/01	The Chair to draft a pre consultation RFI and issue to Distributors following the meeting.	The Chair	Action closed. RFI issued on 20 May 2024.
03/01	Secretariat to review the recording of the previous meeting to find discussion on why LV to HV should not be included in the table.	HP	Closed
03/02	Members to remove irrelevant cases from 'other' column of question 2 and provide updated volume.	Members	Closed
03/03	The Chair to contact the Market-wide Half-Hourly Settlement (MHHS) Programme to see how they are approaching similar scenarios regarding backdating.	The Chair	Closed
03/04	The Chair to send WGs questions to Gowling and to ask Gus Wood to attend the next meeting to discuss.	The Chair	Closed