

Artificial intelligence (AI) in the energy sector guidance: Ofgem consultation

Energy UK response

7 February 2025

About Energy UK

Energy UK is the trade association for the energy industry with over 100 members - from established FTSE 100 companies right through to new, growing suppliers, generators, and service providers across energy, transport, heat, and technology. Our members deliver nearly 80% of the UK's power generation and over 95% of the energy supply for 28 million UK homes as well as businesses.

The sector invests £13bn annually and delivers nearly £30bn in gross value - on top of the nearly £100bn in economic activity through its supply chain and interaction with other sectors. The energy industry is key to delivering growth and plans to invest £100bn over the course of this decade in new energy sources. The energy sector supports 700,000 jobs in every corner of the country.

Energy UK plays a key role in ensuring we attract and retain a diverse workforce. In addition to our Young Energy Professionals Forum, which has over 2,000 members representing over 350 organisations, we are a founding member of TIDE, an industry-wide taskforce to tackle Inclusion and Diversity across energy.

Introduction

Industry welcomes Ofgem's focus on this rapidly developing area, in line with our response to Ofgem's Call for Input last year.

Energy UK's response to this consultation has been developed in collaboration with companies from across our membership including energy suppliers, generators, and service providers. Our members support an optimistic approach to the use of AI across the energy sector, seeing AI as an enabler of many positive current and future developments for customers and industry which support wider growth and help bring down energy bills.

Broadly, Energy UK members agree with the proposed scope of Ofgem's guidance and support Ofgem's view that no new requirements or specific AI reporting should be imposed on licensed parties at this time. We welcome Ofgem's ambition of taking a pro-innovation and principles-based approach to this guidance. Members strongly recommend that this is made explicitly clear in any final guidance, to provide confidence on this point to industry.

There is, however, some concern from members that the current drafting of the guidance looks more prescriptive than Ofgem appears to intend it to be.

Scope

A query that has been raised regularly in member discussions and at Ofgem webinars is whether the guidance is applicable to all parties across the supply chain, or to licensed entities only. The answer to this question would become particularly important if Ofgem were to consult on the guidance becoming part of the regulatory framework and, therefore, enforceable. In this instance - where the guidance is intended to be used by all stakeholders in the energy sector, but is only enforceable for licensed entities - there is a risk of an unlevel playing field emerging, and consequently an increased risk for consumers.

AI can also be used by some organisations to build solutions outside their own ecosystems, but which feed into their businesses, for example AI may be used to respond to customers and develop custom responses. This could result in different levels of service dependent on customer characteristics, such as their level of debt. This does not appear to be reflected in the guidance at present.

Some members would also welcome a clearer steer on what Ofgem generally accepts as constituting AI, for example in differentiating between simple automation and more complex AI systems.

Level of prescription

Some members believe the guidance is currently too prescriptive with respect to processes, policies, and governance to meet Ofgem's stated intention to adopt a pro-innovation approach. The level of specificity in the guidance may not be appropriate for certain business models and implies a particular way of running a firm and managing risk that is not universal among licensed entities. This may also discourage parties from taking a more agile approach that could support industry innovation and positive developments which drive growth and bring down bills for customers. Many businesses will also need to take this guidance into consideration alongside other regulatory requirements and guidance on AI.

The guidance is currently structured as follows:

- **Governance and policies**
 - Expectation
 - Description

- Good practice
- **Risk**
 - Expectation
 - Description
 - Good practice
- **Competencies**
 - Expectation
 - Description
 - Good practice
- **Sector specific examples**

The ‘Good practice’ and ‘Sector-specific examples’ sections in particular include prescriptive elements. It is unclear whether the prescriptive ‘good practice’ put forward in the consultation paper has been drawn from industry insights, and therefore if it is the best option to ensure good outcomes for customers.

Energy UK recommends that Ofgem restructures the guidance as follows:

- Keep the ‘Expectation’ and ‘Description’ sections.
- Redraft the ‘Good practice’ sections with less prescriptive language, for example consideration “could be” given to rather than “should be” or “expected to”. Update these sections by drawing on industry insights.
- Redraft the ‘Sector-specific examples’ in line with the point above.

Some examples of where we believe the guidance is too prescriptive as currently drafted are:

- "Organisations are expected to designate an AI officer to oversee the ethical, responsible and effective deployment of AI technologies" (*Competencies; Good practice*); and
- "Strategies and organisational arrangements for the use of AI are expected to be driven at board and senior management levels...Board oversight over AI can reside with the full board, an existing committee...or a newly formed committee" (*Governance and policies, Good Practice*).

Enforcement

In the consultation paper, it is stated that the guidance sets out good practice expectations to supplement and support the existing regulatory regime. This implies that the guidance is a toolkit that stakeholders can use to assist with compliance, but that it is not a compliance requirement itself – such that failure to follow the guidance should not itself result in compliance action. Further, Energy UK understands that Ofgem is taking a proportionate, reactive approach to AI generally, and will not take action where risk/impact to customers is low. This is an approach that members support. Ofgem’s commitment to this approach needs to be made explicit to provide market confidence and enable industry to develop innovative products and services that can deliver better outcomes for customers. Energy UK notes that guidance elsewhere is used for compliance purposes and asks Ofgem to clarify that this is not the case here.

Development of guidance

Energy UK urges Ofgem to ensure that any changes to the scope, content, and application of the guidance are consulted upon with industry, and that suitable time is allowed for companies to make any necessary changes.

The guidance should be reviewed as innovation progresses. Ofgem should also consider that the range of energy products and services that it regulates is expanding. For example, Ofgem may want to assess how its AI guidance could be used by load controller licensees and heat network operators in the future.

Currently there are gaps in the Risk section, which could be strengthened with some practical examples, although Energy UK notes that this could be covered by the AI regulatory laboratory (AI Reg Lab) session outcomes.

Consistency with wider regulatory framework

Ofgem's activity on protections around AI needs to be consistent with Ofgem's wider work on barriers to innovation, where Energy UK has been urging that rules impacting customer outcomes should be fairly and consistently applied across the market.¹

More broadly, coordination of approaches across regulators is important, particularly as Ofgem has interpreted the government's five AI principles into four distinct principles for the energy sector. Some members are concerned that designing separate cross-economy principles for the energy sector risks discouraging growth and innovation, and may lead to customer confusion as to why they are treated differently with reference to AI by customer service, depending on the industry.

Members also note the need to consider how licensees are held accountable for use of AI by code parties or other third parties they rely upon, but do not have a choice as to contracting with. Code bodies' use of AI may be beyond the control of licensees, however if that AI use goes wrong, it could have considerable implications for other licensed entities. Accordingly, there is a need to further consider how such situations can be managed and ensure that licensed code managers (as planned via wider energy code reforms) are held to similar standards as other licensed entities.

AI Reg Lab

Energy UK welcomes the AI Reg Lab sessions to test the guidance and is interested in seeing how they develop. The sessions can provide helpful practical examples, and there is value in considering how these could be continued, such as through the energy regulatory sandbox.

¹ <https://www.energy-uk.org.uk/publications/energy-uk-response-to-ofgem-consultation-on-innovation-in-the-energy-retail-market/>

However, members are concerned that the session outcomes could significantly inform Ofgem's final decision without an opportunity for further consultation with industry to ensure insights resonate more broadly. As such, Energy UK strongly recommends that Ofgem holds a webinar with key stakeholders to share its learnings and hear any further feedback before the final decision, to ensure a more transparent and robust process.

For further information or to discuss our response in more detail please contact Daisy Cross, Head of Future Retail Markets at daisy.cross@energy-uk.org.uk or Isabella Darin, Policy Manager at Isabella.darin@energy-uk.org.uk