

# Ofgem guidance – Appeals of Alt-Han Forum Decisions

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## Introduction

This guidance document sets out our approach to discharging appeals brought to Ofgem<sup>1</sup> against Alt-Han Forum decisions<sup>2</sup>. It provides an overview of the procedure that such appeals will follow; however, appeals will be dealt with on a case by case basis.

## What is an Alt-Han Forum decision that is subject to the appeal process?

The Alt-Han Forum shall, in accordance with the provisions of SEC Section Z, make all decisions required for the purpose of carrying out the Alt HAN Activities and the making available and provision of the Alt HAN Services, except for any decisions which may from time to time be delegated by it to AlthANCo or any Forum Sub-Group.

These decisions will follow all the rules and guidelines set out within Section Z of the SEC.

## Who is eligible to appeal Alt-Han Forum decision?

A Relevant Supplier Party may appeal to the Authority any decision of the Forum on the ground that it is inconsistent with the Forum Objectives as outlined in SEC section Z 1.3. Eligible parties have an equal right to appeal.

## On what grounds can an appeal be made?

The grounds for an appeal are set out in the SEC Section Z 1.61.

An appeal under Section Z1.61 will only be validly made if:

- It is notified to the Authority within 30 Working Days of the date on which the Forum made the decision which is subject to appeal;
- Copy of the notice is given to the Alt HAN Secretariat on the same date on which it is sent to the Authority;
- the notice specifies why the relevant party which is bringing the appeal considers that the decision which is subject to appeal is inconsistent with the Forum Objectives<sup>3</sup>; and
- the appeal is not raised for reasons which are trivial and the appeal has a reasonable prospect of success.

## How does an eligible party make an appeal?

The existing rules may provide that the forum can review and re-take the decision. The appellant should always exhaust any alternative appeal, complaint or dispute resolution processes within the relevant code provisions before appealing the Alt-Han Forum decision to the Authority.

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<sup>1</sup> The terms 'Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

<sup>2</sup> <https://smartenergycodecompany.co.uk/the-smart-energy-code-2/> SEC Section Z1.61

<sup>3</sup> <https://smartenergycodecompany.co.uk/the-smart-energy-code-2/> SEC Section Z1.3

To make an appeal to the Authority the appellant should complete the 'Alt - Han Forum Decision Appeal Form'<sup>4</sup> providing as much detail as possible and submitting all relevant documentary evidence with the form in support of its case<sup>5</sup>.

The appellant **must** provide the following details<sup>6</sup>, and any other relevant information on the form:

- the name of the appellant, including the contact details of a designated representative of the appellant for the purpose of the appeal. An alternate representative's details are also required;
- the name/reference of the Alt Han Forum decision against which the appellant is appealing and a copy of that decision;
- the ground(s) on which the appeal is being made, by reference to the eligible grounds for appeal;
- the reasons for the appeal in as much detail as possible along with supporting evidence. This is important because it will inform the Authority in deciding whether the appeal should proceed;
- an explanation of the impact on the appellant of the Forum decision and how a successful appeal would resolve the matter; and
- the date on which the form is submitted.

In signing the form, the appellant verifies that it believes that the facts stated in the form are true.

### **When can an eligible party make an appeal?**

The appeal form and relevant documentary evidence must be submitted to the Authority by email to [smartmetering@ofgem.gov.uk](mailto:smartmetering@ofgem.gov.uk) and copied to the Alt-Han Secretariat within the appeal window. The appeal window is 30 working days of the date on which the Forum made the decision which is subject to appeal.

### **What is the process after an appeal is made?**

We aim to acknowledge the appeal and confirm whether we consider it to be valid within 10 working days of the appeal window closing. If the appeal is to proceed, Ofgem may request further information from the appellant, Alt Han Forum, or any other party as may be applicable to determining the appeal.

We will decide on a case by case basis if we require further information in order to progress an appeal. We will aim to seek any further information in a timely manner, and typically expect this process to take up to 4 weeks. We will take into account the information initially submitted on the appeal form and, where appropriate, we will set out specific questions.

The timetable for the appeal process may vary depending upon the individual circumstances of the appeal. If we confirm that an appeal is to proceed, next steps and an indicative timeframe will be outlined in the acknowledgement letter.

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<sup>4</sup> The form is attached to this guidance and available on the website of the code administrator.

<sup>5</sup> We reserve the right to refer to the Forum to request information, support and assistance from Forum (Z1.65).

<sup>6</sup> Any confidential material submitted in relation to an appeal must be clearly marked as such and a non-confidential summary also provided for publication

If an appeal is refused ie we consider that the appeal does not meet the grounds for appeal, we will explain why.

In the case that more than one appeal is made against the same decision, these appeals will initially be assessed on their own merits. If allowed to proceed, these appeals may be dealt with together as one matter.

**Will the appeal form and information submitted in relation to an appeal be published?**

All documents submitted in relation to an appeal will be published on the Ofgem website<sup>7</sup> (unless clearly marked as confidential). The documents submitted should be relevant to the appeal and, where appropriate, respond to the specific questions raised by the Authority.

Any confidential material submitted in relation to an appeal must be clearly marked as such and a non-confidential summary also provided for publication.

**When would the Authority be able to make a decision?**

We will aim to issue our decision in a timely manner. As above, the timetable will be dependent upon the circumstances of the appeal and whether further information is required. Typically we will aim to publish our decision within 25 working days of either:

- a) the date of our acknowledgement letter confirming that the appeal is considered valid, in cases where we consider that no further information is required; or,
- b) the date at which our final request for further information closes.

When a decision is made it will be issued as an open letter and state the reasons why the Authority has reached its decision and, where appropriate, direct further action to be taken.

**What are the appeal outcomes?**

The following outcomes may result from an Authority decision of an appeal:

**1. The Authority rejects the appeal and upholds the Alt – Han Forum decision:**

- a) The appellant has failed to establish that the decision being appealed is inconsistent with the Forum Objectives, it shall uphold the decision

As the Authority agrees with the original decision, there will be no further appeal of the Authority's decision.

**2. The Authority upholds the appeal and establishes that the decision being appealed is inconsistent with the Forum Objectives:**

In this case the Authority may:

  

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- a) quash the decision;
- b) remit the decision to be remade by the Forum; and/or
- c) substitute its own decision for that of the Forum, which shall then have effect for the purposes of this Section Z as if it had been a decision of the Forum.

Any decision of the Authority in relation to a matter appealed to it under Section Z1.61 shall be final and binding for the purposes of SEC Section Z.

## Alt-Han Forum Decision Appeal Form

**Name and reference of the Alt-Han Forum decision which you are appealing (please provide a copy of the decision with this form):**

**Date on which the decision was taken/published:**

**On which ground(s) are you appealing the Forum decision?:**

**Please provide detailed facts and reason(s) in support of your appeal:**

**Please explain the impact on you of this decision and how a successful appeal would resolve this matter. Please indicate if you consider there to be any other persons affected by this decision.**

<b>Details of Appellant:</b> Organisation's Name:	
<b>Capacity in which the Appeal is raised:</b>	
<b>Details of the Appellant's Representative:</b> Name: Organisation: Address: Telephone Number: Email Address:	
<b>Details of the Representative's Alternate:</b> Name: Organisation: Telephone Number: Email Address:	
<p><b>Are you supplying attachments to this form? (see Notes)</b> Yes / No *delete as appropriate</p> <p><b>If 'Yes'</b> please provide the title and number of pages of each attachment and whether it is confidential or not:</p>	
<p><b>Statement of truth</b></p> <p>The appellant believes that the facts stated in this form are true.</p> <p>Name: .....</p> <p>Position: .....</p> <p>Signature: .....</p> <p>Date: .....</p>	

**Notes:**

You should attach relevant detailed documentary evidence only for appeal purposes. If you wish to submit evidence which is confidential, please mark this accordingly and provide a non-confidential summary with it.

**Completed appeal forms should be submitted to [smartmetering@ofgem.gov.uk](mailto:smartmetering@ofgem.gov.uk) and copied to the relevant code administrator.**