



*Promoting choice and value for
all gas and electricity customers*

To: non-domestic suppliers, non-domestic consumers, and their representatives, and other interested parties

Direct Dial: 020 7901 7061
Email: phil.sumner@ofgem.gov.uk

Date: 20 December 2012

Open letter: Non-domestic debt and disconnection - suppliers' approaches and good practice expectations

Summary

This letter summarises our recent work reviewing suppliers' approaches to managing non-domestic debt and disconnection as part of our ongoing work in addressing issues faced by non-domestic consumers. We have undertaken this work in conjunction with Consumer Focus who will be writing separately to individual suppliers with their views and recommendations on areas of improvement to their non-domestic debt and disconnection paths.

Non-domestic customers do not have the same levels of protection on debt and disconnection as domestic consumers, who are protected through licence conditions. These licence conditions provide a number of protections where households face payment difficulty including taking into account ability to pay, the use of pre-payment meters, preventing the disconnection of vulnerable customers and the provision of information around these obligations.

Overall, we do not currently see that enforceable licence protections of this nature are necessary or desirable for non-domestic customers, where the nature of the detriment is different and where equivalent issues of vulnerability and fuel poverty do not exist. However, suppliers should treat non-domestic customers who are in payment difficulties and face disconnection fairly. Through our Retail Market Review¹ we noted that many small businesses have similar levels of knowledge of, and engagement in the energy market to domestic customers, and we also recognise the impact on businesses of rising energy costs in the current economic climate. However, the nature of the potential detriment that can be experienced by business customers is different to households.

We therefore consider suppliers should adopt and apply good practice in their treatment of business customers in payment difficulty and facing disconnection. This letter provides our expectations of suppliers when dealing with customers in these circumstances. Our focus has been on smaller non-domestic customers although the good practice approaches we highlight should be applied to non-domestic customers more widely where appropriate.

¹ <http://www.ofgem.gov.uk/markets/retmkt/rmr/protecting-businesses/pages/index.aspx>

In particular, we would expect to see suppliers applying good practice in the following areas:

- treatment of customers getting into payment difficulty;
- suppliers' disconnection paths which allow pro-active and tailored communication;
- the provision of information and signposting to third party help;
- the use of site visits;
- treatment of shared occupancy of non-domestic premises by domestic consumers;
- the way charges are applied through the disconnection process; and
- ensuring customers with smart meters are treated in the same, fair manner.

In addition, we will review the quarterly information we have been receiving from suppliers on disconnection rates, after one year's worth of data, in spring 2013, with a view to publishing this data in the future.

We consider that it is important that all suppliers understand the role of the Citizens' Advice consumer service and the Consumer Focus Extra Help Unit (EHU) which provide advice and help to small businesses in such circumstances, and to ensure that they are positively interacting with these services. We will continue to monitor cases we receive from the Citizens' Advice consumer service, the Consumer Focus Extra Help Unit, the Ombudsman and other sources to see that suppliers are applying this good practice in their approaches to non-domestic disconnection.

Background and previous activity

Ofgem wrote an Open Letter² (November 2011) in relation to non-domestic protections from the 'Spring Package', outlining the need for suppliers to meet requirements around disconnection of meters with smart functionality. It also highlighted the need for suppliers to apply good practice in the way they deal with disconnections.

In this letter we also stated that we would be monitoring, on a quarterly basis, the number of disconnections for micro- and small businesses, including where customers had meters with smart functionality and that we would review the conduct of suppliers in this area after 1 year (in Spring 2013) based on the information we receive. To date we have received data from the last three quarters.

In 2011, Consumer Focus published a set of case studies³ from business customers who had contacted its EHU. The EHU continues to receive complaints from business customers facing disconnection, and is currently receiving over 50 cases a month. Consumer Focus has also provided us with information on supplier debt and disconnection paths following a request for information to suppliers.

²<http://www.ofgem.gov.uk/Sustainability/SocAction/Publications/Documents1/nondomsmartmetersspringpackageopenletnov.pdf>

³ <http://www.consumerfocus.org.uk/files/2011/05/Small-business-big-price.pdf>

Ofgem and Consumer Focus met both the large, and a number of smaller, suppliers on a one-to-one basis between June and September this year to discuss in more detail their approaches to non-domestic debt and disconnection.

As a result of this activity, we have identified a number of areas where suppliers should focus the development of good practice.

Customers in payment difficulty

All suppliers we met stated that disconnection is seen as a last resort and that their debt paths are designed to ensure that it is avoided where possible. Suppliers stated that in cases where a customer is in payment difficulty and contacts them they would seek solutions that would avoid the need for disconnection.

We consider that suppliers should pro-actively seek to assist non-domestic customers in these circumstances. We have noted a number of suppliers have set up dedicated teams or specific training allowing for improved interaction with their non-domestic customers. We also noted the development by at least one supplier of time to pay principles covering micro-businesses where, for example, longer payment arrangements may be offered where appropriate in managing customer debt which take account of individual business' circumstances (for example through giving consideration to a business' cash flow). We welcome the development of approaches such as these. The OFT have provided guidance on debt collection⁴ which applies to domestic consumers but we see many of the principles in it could equally be applied by suppliers in their treatment of non-domestic customers in payment difficulty.

We noted in a very limited number of cases, certain suppliers have installed meters with pre-payment functionality as a means to help business customers (at the very small end) to manage their payments. While we welcome any approaches which help customers in this way, if offered it should be appropriate to the customers' needs, is clearly understood by them, and is at their request. We will continue monitor the effectiveness of this approach.

Suppliers' debt and disconnection paths

Suppliers should ensure that they are able to demonstrate the statutory requirements for notice have been met⁵ but we would also expect suppliers to go beyond these requirements as good practice. In the information they provided, and when we met with them, suppliers showed there were a range of timescales in their overall debt and disconnection paths (based on the period from the first reminder to final disconnection).

We noted that some suppliers segmented their customers, either at acquisition or as a result of payment history, and may apply different timescales according to this segmentation. While there may be legitimate reasons for these variations, it is important that suppliers apply a dynamic process to the way they segment their customer base in terms of the treatment for debt. Suppliers should regularly review whether individual customers have been appropriately categorised and are being treated fairly as a result.

While noting that suppliers do have variations in timescales, it is important for suppliers to demonstrate that they are actively engaging with the customers within the time periods set out in their debt paths. We have noted that suppliers send letters to customers at key stages of their debt paths and these are followed up by outbound phone calls and, in some

⁴ http://www.ofg.gov.uk/shared_ofg/consultations/OFT664Rev_Debt_collection_g1.pdf

⁵ Suppliers are statutorily required to give minimum of 7 days written notice ahead of disconnection or prepayment installation. That notice cannot be given until 28 days have passed since a written demand for payment was made.

cases, email and other forms of electronic communication. We consider a variety of approaches should be used by suppliers to understand their customers' circumstances and pro-actively communicate using channels which are best suited to their customers' needs. We welcome the use of a range of communication channels such as email and text messages, as they can provide effective prompts for engagement, although they should be used in addition to letters and calls.

On this basis, we consider those suppliers who had shorter debt and disconnection paths should review their actions within these paths to ensure their customer engagement demonstrates a pro-active and tailored approach to managing customers in debt.

If used at all, we would expect to see the use of direct incentives to suppliers' staff (or agents) to pursue debt only to be applied in a way which actively encourages understanding the customer' situation. Any use of such incentives should not encourage behaviours which lead to inappropriate outcomes.

Provision of information and signposting to third parties

We noted that a number of suppliers apply approaches as part of their debt paths which proactively signpost to third parties who specialise in dealing with business debt advice (for example, Business Debtline).

We welcome this approach, given that the current economic climate means that businesses in energy debt, and facing disconnection, may benefit from specialist help that suppliers are not always in a position or have the ability to provide. Some suppliers had built strong working relationships with these third parties and we would encourage all suppliers to develop such relationships, with a view to embedding signposting as part of their disconnection processes.

We consider that suppliers have a role in helping customers through provision of information to help manage energy costs and payments, including the provision of energy efficiency information. This should be made generally available through websites but also provided at an appropriate time in the debt path.

Site visits

Suppliers have stated that pre-disconnection site visits were an integral part of their current debt and disconnection paths. We noted suppliers often use third-party agents to undertake these visits.

We consider site visits should be part of the overall set of consumer contact with customers within the debt and disconnection path. In particular, we see a site visit as important where a customer has been hard to reach, as it allows a supplier to gain a better understanding of their circumstances, the type of premises and potential customer vulnerability at the site. As such, they should take place in circumstances both where there is a meter with non-smart, or smart, functionality, as face-to-face contact is required.

Site visits should be undertaken in a fair manner in accordance with good practice, such as providing prior notice of the visit, making it clear to the customer the visit's purpose and outcomes and not behaving in a threatening manner. The site visit should include a clear 'checklist' of issues and circumstances at the site to be completed before further action is taken. These checks should include whether there is shared occupancy and signs of vulnerable customer occupancy. This approach is equally important where suppliers use a third party agent, and suitable controls should be in place to ensure that the supplier is able to provide evidence of such checks.

Shared occupancy of non-domestic premises with domestic consumers

Linked to the above, site visits should seek to identify situations where non-domestic premises have shared occupancy with domestic customers and suppliers should have processes in place, including through the site visit to do this. When we met with suppliers, they assured us that where they identified a domestic customer was resident (and sharing the supply) they would stop the process and would pursue a path which took account of these circumstances. We consider that the Energy UK Safety Net⁶ provides a clear approach on this and would expect all suppliers to adopt these principles.

We would also expect suppliers to have approaches which identify sites within their non-domestic customer base which have domestic and/or vulnerable residents, for example care homes, and to treat them in an appropriate manner.

Smart functionality and remote disconnection

When we met suppliers, we noted that they did not apply a different debt and disconnection process where a meter has smart functionality and is able to be disconnected remotely. While we are reassured that suppliers are not adopting different approaches, we note that remote disconnection does not require a warrant for entry, and the potential additional protection and opportunity for customer engagement this gives. In our 'Spring Package' Open Letter, we stated how we would expect to see suppliers dealing with smart functionality disconnections and will continue to monitor to see if further steps need to be taken to protect consumers. In the meantime, we would expect suppliers to be able to demonstrate in such cases the steps they have taken to actively engage a customer prior to remote disconnection.

Application of charges through the disconnection process

We noted suppliers applied a range of charges to the customer through a disconnection process. It is important that customers have an understanding of the charges and we expect suppliers to make these charges clear to customers at the outset of the process. Charges should only reflect costs and should be proportionate in the way they are applied. Staff should have flexibility to waive charges where appropriate.

Next steps

We expect suppliers to apply the good practices we have identified in this area and where these do not already exist we expect suppliers to take steps to develop them.

We will continue to monitor cases we receive from Consumer Focus, the Ombudsman and other sources to see that suppliers are applying good practice in their approaches to non-domestic disconnection. As stated we will review the information on the numbers of disconnections which we are receiving once we have an annual set of data and will contact suppliers separately on this.

Consumer Focus will be providing individual feedback to suppliers on their approaches to debt and disconnection and we will work with suppliers and Consumer Focus on identified areas for improvement. We will also review with Consumer Focus/Regulated Industries Unit the actions taken by suppliers later in 2013.

⁶ <http://www.energy-uk.org.uk/policy/disconnection.html>

If we see evidence that suppliers are not acting in accordance with our expectations we may consider the case for further intervention. If you wish to discuss the contents of this letter further then please contact Phil Sumner, phil.sumner@ofgem.gov.uk

Yours sincerely

A handwritten signature in black ink, appearing to read 'Philip Cullum', with a stylized flourish at the end.

Philip Cullum
Partner – Consumer Policy and Demand Side Insight