

British Gas Trading Ltd ('BG'): Notice of reasons under Section 49A of the Electricity Act 1989 and Section 38A of the Gas Act 1986 for the decision to make a Provisional Order under Section 25(2) of the Electricity Act 1989 and Section 28(2) of the Gas Act 1986

1. This Notice sets out the reasons why on 2 February 2023 the Gas and Electricity Authority ("the Authority") made a Provisional Order in respect of likely contraventions by British Gas Trading Ltd (company number 03078711), having its registered office at Millstream Maidenhead Road, Windsor, Berkshire, SL4 5GD ("BG").
2. BG is the holder of electricity and gas supply licences ("Licences") granted by the Authority and is subject to the usual conditions thereunder, which are the "relevant conditions" for the purposes of the Electricity Act 1989 ("EA1989") and the Gas Act 1986 ("GA1986").
3. The Provisional Order was made as it appeared to the Authority that BG, is contravening or likely to contravene Standard Licence Conditions ("SLCs") 0, 13.1 (a) and (d), 27.11A, 28.1A, 28.1B and 28B.1 of its Gas and Electricity Supply Licences.
4. The Authority was provided information by The Times newspaper. This information had been obtained by an undercover investigative journalist who had worked for one of BG's Representatives (Arvato Financial Solutions Ltd ('Arvato')). Arvato is a Representative that BG use to install prepayment meters ('PPMs') under warrant and conduct debt collection activity. The information obtained by The Times indicated that Arvato's staff were forcing entry to BG's customers' homes and fitting PPMs in situations where it was inappropriate to do so, and where there were indications it would be inappropriate to do so. The information obtained also indicated that there was the possibility that some customers would self-disconnect shortly after the PPM installation.
5. The Authority was also provided with information that suggested BG has policies in place to disconnect domestic customers for unpaid charges when a PPM installation is not possible for technical reasons.

6. The information provided by The Times not only raised serious concerns about BG's Representatives' ability to assess and respond to customers in vulnerable situations and treat their domestic customers fairly but also about their professionalism, fitness and propriety. As a result of the information provided to the Authority it has significant concerns that BG is contravening or likely to contravene SLCs 0, 13.1 (a) and (d), 27.11A, 28.1A, 28.1B and 28B.1

7. SLC 0 relates to the Standards of Conduct. SLC 0.1 states:

'The objective of this condition is for the licensee and any Representative to ensure that each Domestic Customer, including each Domestic Customer in a Vulnerable Situation, is treated Fairly ("the Customer Objective").'

And SLC 0.2 states:

'The licensee must, and must ensure that its Representatives, achieve the Standards of Conduct in a manner consistent with the Customer Objective.'

8. Subsequent sections of SLC 0 outline the standards that are to be achieved. These include standards relating to behaviours, information provided to customers, customer service arrangements and particular requirements regarding customers in vulnerable situations.

9. SLC 13.1 (a) and (d) relate to the arrangements for visiting customers at their premises. They state:

'13.1 The licensee must take all reasonable steps to ensure that each Representative who visits a Customer's premises on the licensee's behalf:

(a) possesses the skills necessary to perform the required function;...

(d) is a fit and proper person to visit and enter the Customer's premises;'

10. SLC 27.11A relates to Disconnection activity and states:

27.11A The licensee shall, before it exercises any right it may have to Disconnect a Domestic Premises, take all reasonable steps to ascertain whether:

- (i) the relevant Domestic Customer falls within the scope of SLC 27.10; or*
- (ii) the restriction on its right to disconnect in accordance with SLC 27.11 applies.*

11. SLC 28.1A and 1B state:

'28.1A Where a Domestic Customer uses a Prepayment Meter and the licensee becomes aware or has reason to believe that it is no longer safe and reasonably practicable in all the circumstances of the case for the Domestic Customer to do so, the licensee must offer:

- (a) to alter the position of, or replace with one which has been specially adapted, the Prepayment Meter installed in the Domestic Premises, either in accordance with its obligations under Schedule 6 (Electricity Code) or otherwise, if it would make it safe and reasonably practicable in all the circumstances of the case, for the Domestic Customer to continue to use the Prepayment Meter;*
- (b) to make such other arrangements as are necessary to ensure that it would be safe and reasonably practicable in all the circumstances of the case, for the Domestic Customer to continue to use the Prepayment Meter; or*
- (c) a facility for the Domestic Customer to pay Charges through a means other than a prepayment meter, including, where condition 27.5 applies, the services referred to in condition 27.6(a)(i) and (ii).*

28.1B The licensee must have regard to guidance on the interpretation of "safe and reasonably practicable in all the circumstances of the case" which, following consultation, the Authority may issue, and may from time to time revise.

12. SLC 28B.1 refers to customers with particular vulnerabilities and states:

'The licensee must not exercise a Relevant Warrant (or otherwise exercise a statutory power which would give rise to the grounds for obtaining a Relevant Warrant) in respect of a Domestic Customer's premises where such action would be severely traumatic to that Domestic Customer due to an existing vulnerability which relates to their mental capacity and/or psychological state and would be made significantly worse by the experience.'

13. The Provisional Order was made as it appeared to the Authority that BG is contravening or likely to contravene SLCs 0, 13.1 (a) and (d), 27.11A, 28.1A, 28.1B and 28B.1 by virtue of the following:
- a. The information provided by The Times indicated that BG's Representatives were not behaving in an appropriate and professional manner towards its Domestic Customers. The information also indicated that BG's Representatives were not identifying customers in vulnerable situations and/or behaving appropriately towards those customers and failing to treat their customers fairly. The behaviour of the Representatives in visiting customers at their premises also gives rise to serious concerns regarding their fitness and propriety. This is contrary to the requirements of SLC 0 and SLC 13.1(a) and (d).
 - b. Information provided to the Authority suggested that BG has a policy that permits the disconnection of domestic customers when there is no compatible PPM meter available. These circumstances would arise if a domestic customer had a meter normally associated with non-domestic customers. Under SLC 27.11A licensees are obliged to consider the particular characteristics of the Domestic Customer, including age, health and also the time of year before disconnection. Having such a disconnection policy without considering a Domestic Customer's circumstances is contrary to SLC 27.11A.
 - c. Information provided to the Authority indicated that BG's Representatives installed PPMs for Domestic Customers who would have difficulty operating this type of meter, had medical conditions that could be aggravated without heating and/or an electricity supply that would go off supply imminently as they had no means of adding credit. In such circumstances it would not be safe and/or reasonably practicable for these customers to pay for their energy via PPM. The Authority has published guidance regarding what is safe and reasonably practicable pursuant to SLC 28.1B but BG does not appear to have followed it. This is contrary to SLC 28.1A and 1B.
 - d. Information provided to the Authority indicates that BG was obtaining and executing warrants in situations involving customers with existing vulnerabilities in that they had mental health issues and for whom the installation of a PPM

under warrant would be traumatic and significantly worsen their condition by the experience. This is contrary to SLC 28.B1.

14. The Authority considers that it is essential to uphold compliance with these conditions as failure to do so risks significant consumer harm. The current market conditions are challenging for consumers, with many facing financial difficulties attributed not just to rising energy costs, but wider issues related to the rising cost of living. The installation of a PPM under warrant is a latter stage of the debt recovery process. In certain circumstances it would not be an appropriate method of debt recovery. Furthermore, when executing a Relevant Warrant the Authority expects that licensees and their Representatives to behave in a professional manner and make a further assessment at that point to ensure that the warrant execution is appropriate.
15. Licensees and their Representatives must assess not only customer vulnerabilities but must also consider if the installation of the PPM is safe and reasonably practicable for the customer. Elements of that assessment will include what reliance a customer has on their energy supply and the practicalities crediting the PPM. If a licensee or its Representative is not satisfied that a PPM installation is appropriate in the circumstances then the installation must not proceed. This same also applies to disconnection activity. If a licensee or its Representative proceeds with a PPM installation (or disconnection) when it is not appropriate to do so it is not only distressing for customers but also places them at significant risk of harm. Based on the information thus far the Authority considers BG's arrangements in this regard appear to be non-compliant. The Authority views this as a serious non-compliance issue requiring BG to take immediate corrective action.
16. Therefore, the Authority considers it requisite to issue a Provisional Order to BG, as it appears that BG is contravening or likely to contravene SLCs 0, 13.1 (a) and (d), 27.11A, 28.1A, 28.1B and 28B.1 of its Gas and Electricity Licences.
17. The Authority has had regard to the matters in sections 25(3), (4A), (4B), (5), and (5A) and 26 of the EA1989 and the equivalent provisions of the GA1989. In particular:
 - a. It does not consider that it would be more appropriate to proceed under the Competition Act 1998 (that Act has no application to the present circumstances);

- b. It is satisfied that the duties imposed on the Authority by the EA1989 and/or the GA1986 do not preclude Authority from making the Provisional Order ;
- c. It does not consider that the contraventions are trivial.

18. The Provisional Order requires BG to, by no later than 2 May 2023:

- 1. Not to act in contravention of SLCs 0, 13.1 (a) and (d), 27.11A, 28.1A, 28.1B and 28B.1.*
- 2. Immediately to cease all installations of pre-payment meters ('PPM') under a Relevant Warrant¹ and cease disconnection of any Domestic Customers for reasons of unpaid charges until the terms of this Provisional Order are met.*
- 3. To provide a preliminary internal report by 13 February 2023 relating to non-compliance with the matters outlined in paragraphs 1 and 2 above.*
- 4. By no later than 6 March 2023, to provide the Authority with an independent audit report (commissioned at BG's own expense and prepared by an independent professional acceptable to the Authority² with a framework and remit also acceptable to the Authority³) identifying any areas in BG's policy and processes that do not comply with paragraphs 1 and 2 above (including the application and adherence to such policies and procedures) alongside a remedial action plan to address any non-compliance issues identified. The remedial action plan must include targets for any remedial actions, and clear timeframes when these will be achieved. However, these timeframes should not extend past 3 April 2023.*
- 5. To provide written assurance from the BG Board that all actions contained in the remedial plan have been completed and that BG is now compliant with its obligations under SLCs 0, 13.1 (a) and (d), 27.11A, 28.1A, 28.1B and 28B.1. This assurance is to be provided no later than 10 April 2023.*
- 6. To provide all reports or summaries of initial and final findings provided to the BG Board, sub-committees of that Board or BG Directors, relating to non-compliance with*

¹ This applies to installations carried out by BG or any Representatives and includes remote switching from credit to PPM mode Relevant Warrant is defined in SLC 28B.10

² BG must consult with the Authority's Senior Responsible Officer prior to engaging its proposed auditor.

³ BG must consult with the Authority's Senior Responsible Officer prior to providing its appointed auditor with the remit for their audit. The Authority will provide BG with direction on the scope, data and performance metrics to be included within the scope of the audit and covered in the report prepared by the independent auditor.

the matters outlined in paragraphs 1 and 2 above on a weekly basis, commencing Monday 13 February 2023.

19. The Provisional Order has been served to BG on 2 February 2023 and is effective from 3 February 2023.

20. The Authority will, in due course, consider whether to confirm the provisional order (with or without modifications). Unless earlier confirmed or revoked by the Authority, the Provisional Order will lapse on 2 May 2023.

21. The issuance of the Provisional Order is without prejudice to any further or other enforcement action the Authority may decide to take, in relation to this or any other outstanding or future breaches. The Authority will consider whether it is appropriate to impose a financial penalty on BG in relation to this breach.

Dated: 10 February 2023



Charles Hargreaves

Deputy Director, Enforcement

Duly Authorised on behalf of the Gas & Electricity Markets Authority