

Citizens Advice response to Ofgem's Call for Input on the Non-Domestic gas and electricity market.

March 2023



Introduction

Citizens Advice provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities. It values diversity, promotes equality and challenges discrimination. From 1 April 2014, Citizens Advice took on the powers of Consumer Futures to become the statutory representative for energy consumers across Great Britain.

The service aims:

- To provide the advice people need for the problems they face
- To improve the policies and practices that affect people's lives.

Citizens Advice is a network of nearly 300 independent advice centres that provide free, impartial advice from more than 2,900 locations in England and Wales, including GPs' surgeries, hospitals, community centres, county courts and magistrates courts, and mobile services both in rural areas and to serve particularly dispersed groups.

We give advice to people through our network of local Citizens Advice offices and through our national Consumer Service helpline. The Extra Help Unit also provides specialist support for domestic and microbusiness energy and postal service users who are in vulnerable circumstances.

This year is a significant milestone in Citizens Advice's role in the consumer protection landscape, marking ten years since the Consumer Service was launched, directly helping people to understand their rights and to resolve the issues they face. In that time we have provided one-to-one advice to almost 7 million people, and have helped tens of millions through our website.

This version of our Call for Input is confidential, as it contains quantitative analysis that cannot be made public due to small sample sizes being used. Another version of this document has been sent to you that is non-confidential

and may be published on your website. If you would like to discuss any matter raised in more detail please do not hesitate to get in contact.

Summary:

Citizens Advice welcomes the opportunity to respond to this consultation as part of its statutory role to represent microbusiness energy customers in Great Britain.

The past three years have presented unique and abiding challenges for small businesses across GB, while the enduring effects of the energy price crisis will continue to present difficulties for the foreseeable future. Now is the right time to consider whether major changes are needed in the non-domestic retail market, to ensure good outcomes for consumers in the months and years ahead.

We have [previously highlighted](#) the harm caused by a lack of protection in some aspects of the non domestic market, including debt, disconnection and contracting issues, and are pleased to see Ofgem's focus on these areas within this Call for Input. Overall the broad scope of the Call for Input and the three main themes identified are appropriate, considering the range of concerns previously voiced by ourselves and other stakeholders.

This Call for Input and Ofgem's wider review of the non-domestic sector is an opportunity to level the playing field - stopping small businesses being exposed to the worst practice and standardising the best, to ensure the proper functioning of the non-domestic retail market.

We recognise that the non-domestic sector operates in a very different way to the domestic sector, and therefore must be regulated differently. However, we support Ofgem's intention to utilise this Call for Input as an opportunity to review whether additional regulation or legislation is needed.

The questions that we have addressed in this response focus on what we feel to be the key issues impacting microbusiness consumers at this time. Broadly in

line with the problems that Ofgem has identified, we were able to provide evidence for:

- Suppliers charging unreasonably high security deposits and other fees related to contracting, and the impact this is having on small businesses.
- Suppliers requesting high up-front payments for debt, and being unwilling to negotiate reasonable repayment plans for their customers.
- High levels of disconnection, where it is not the last resort for the customer.
- Significant protection gaps around being charged for debt that is not owed and Change of Tenancy / Occupancy processes.
- Significant protection gaps around contracting processes and high pressure sales tactics, leaving customers vulnerable to manipulation into unsuitable contracts.

In response to some of the questions in this Call for Input, we have also made recommendations, based on achieving the best possible outcome for microbusiness consumers. We would be happy to discuss these recommendations alongside Ofgem and other stakeholders, and look forward to working together to alleviate issues for consumers. Where necessary, we would welcome more regulation where we have identified policy gaps that impact consumers.

In support of our response to this Call for Input, we have referenced case studies from our Extra Help Unit and the Consumer Service, as well as recent research. The table below lists all our relevant work in the sector and may provide useful additional context.

Relevant Citizens Advice work on microbusiness consumers

2023 [Supporting microbusiness customers with debt: A good practice guide for non-domestic suppliers.](#)

2020 [Stuck in the Middle](#)

[Getting through to business](#)

[Supporting microbusiness consumers - Good Practice Guide](#)

2019 [Response to consultation on improving non-domestic smart metering awareness and data access](#)

[Closing the Protection Gap](#)

[Response to Ofgem's strategic review of the microbusiness retail market](#)

2018 [Micro and Small Business Engagement in the Energy Market](#)

[Small businesses have been let down by the energy industry for too long](#)

[Good Practice Guide - Recovering energy debt from the smallest businesses](#)

[When brokers go rogue](#)

2017 [Smart choices \(microbusinesses and smart meters\)](#)

2016 [Microbusiness Contracts Factsheet](#)

[TPI Factsheet](#)

Response:

Q1. Do you have evidence of suppliers not being proportionate or reasonable regarding charges necessary to secure a contract, including security deposits? If so, please provide us with details.

Citizens Advice has clear evidence that suppliers are not being proportionate or reasonable regarding charges necessary to secure a contract.

There is currently insufficient guidance for suppliers on how security deposits and other charges such as reconnection fees should be calculated, or on how information about these charges should be presented to consumers. This results in an extremely wide range of practices around the issuing and collection of charges relating to contracts.

Between April 2022 and February 2023, the Consumer Service received over 4200 cases from non-domestic consumers. 26% of these cases are from customers seeking advice and information on specific issues, with 69% are specifically categorised as non-domestic contract issues. These cases are complex, and often overlap with billing and debt issues.

We have seen instances of good practice. For example, we are aware of one supplier who does not collect security deposits from Small and Medium sized enterprises. Further, other suppliers require an amount based on three months' actual or predicted usage, or an amount based on 25% of any outstanding debt. We acknowledge that there can be no blanket percentage mandated as the 'right' amount of security deposit to request (i.e. there can be no 'maximum' security deposit), but the examples provided do appear to be reasonable and proportionate to the risk presented.

However, from close analysis of our case data, we can confidently state that the majority of customers contacting us regarding difficulties setting up a contract *are* facing barriers in the form of high and unreasonable upfront charges, including security deposits. A lack of regulation and guidance in this space has led to poor practice developing in the following ways:

- a. There is a lack of transparency around how security deposits are calculated, leading to unreasonable requests.**

Analysis of cases from our consumer service data has shown that, not

only do security deposit charges appear unreasonable, but that there was a large degree of variation in the amounts requested.

For instance, one supplier requested a security deposit that represented 24% of one customers' debt, and 357% of another. Another supplier maintained consistently high security deposits, never falling below 60% of what was owed.

Overall, the analysis showed that where security deposits were requested for customers in debt to re-contract or re-connect, the amount requested was on average twice what the customer reported that they owed. Many of the deposits asked for were four or five times higher than what was owed, while others were a more reasonable 25-30% of the debt.¹

Case Study: Alex

Alex² was disconnected from his electricity after just one week at his new premises. He contacted his supplier and provided his details and a copy of his tenancy agreement. During the couple of weeks it took Alex to obtain the necessary documents, he accrued a debt of around £60. His supplier is asking for a security deposit of £850 - 15 times what is owed - or he won't be reconnected.

b. Lack of guidance and/or regulation around debt collection and Change of Tenancy/ Change of Occupancy procedures exacerbate the issue, especially impacting new small businesses.

Concerningly, analysis of our case data also found frequent examples of customers who had recently moved into new premises being charged large security deposits, calculated based on debt that they could not owe. On average, the customers surveyed who had recently moved into their

¹ Note on the data: This paragraph has been redacted for the public version of our response. Due to time and resource constraints, we were unable to perform this analysis on a large enough sample size to render the data significant. The figures above are based on a sample of 27 cases from our Consumer Service data.

² Names, dates and specific bill/ debt amounts have been changed to protect the clients' identity in all case studies in this response.

premises were being charged a security deposit of £6000³. Being new businesses, many of the customers were unable to pay the security deposits (or they did not want to, considering that they did not owe the money stated), meaning that they were unable to enter into a new contract and start trading.

Customers in this group were also adversely affected by unreasonable change of tenancy requirements. Suppliers have no obligation to pause a debt collection or disconnection process while a debt is being disputed or challenged, so these customers were being actively pursued for a previous tenants' debt while gathering their proof of tenancy documentation. In many cases, the documentation required appeared excessive, and would have been impossible to obtain before disconnection.

Case Study: Simon

Simon⁴ had moved into his premises less than 20 days before he contacted us. During this time, he had received a letter from his supplier stating that, due to a debt of over £15,000, his meter would be disconnected the following day. Having only recently moved into the property, Simon knew that the debt could not be his, and so he contacted his supplier.

To prove that he was a new tenant, the supplier asked him to provide over six separate documents in addition to his stamped lease, proving his change of tenancy. However, having only moved in a few days prior, some of these documents were not available to Simon. The supplier themselves confirmed that it could take an additional 21 days to verify the documents once received, and in the meantime they would disconnect him if he did not pay the debt, security deposit and disconnection fee.

Simon can't afford to pay the debt, let alone the security deposit and reconnection fee, but he also can't afford to lose a months' worth of business while he's off supply.

³ Note on the data: This paragraph has been redacted for the public version of our response. Due to time and resource constraints, we were unable to perform this analysis on a large enough sample size to render the data significant. The figures above are based on a sample of 7 cases from our Consumer Service data.

⁴ Names, dates and specific bill/ debt amounts have been changed to protect the clients' identity in all case studies in this response.

c. In addition to security deposits, there is also a lack of transparency around how other costs are calculated, including reconnection fees.

From our case analysis, we could also see cases where customers were being charged hundreds or thousands of pounds just for their meter to be connected. One customer who had been disconnected due to a previous tenants' debt was being charged £1800 to reconnect. It was unclear how this charge was calculated, and the customer was concerned that the price was being inflated in order to recover some of the previous tenants' debt.

Q2. Do you have suggested solutions to the concerns around high costs requested to secure a contract and manage risk?

a. Guidance and regulation:

It is clear that more guidance is needed for energy suppliers on when security deposits are required and on how much is reasonable to request. We note that Energy UK and ICOSS have worked to produce guidance on good practice for non-domestic suppliers on security deposits and contract renewals, and are broadly supportive of their suggestions. Many of their recommendations could increase transparency around how deposit requests are calculated. This would result in less variation in practice, and hopefully in higher standards.

However, Citizens Advice believes that this is an area that would particularly benefit from direct regulation. In particular, we recommend that Ofgem:

- Outline circumstances in which it is fair and reasonable to request a security deposit.
- Provide guidance on how a fair and reasonable security deposit might be calculated, and request that suppliers provide a breakdown of how a security deposit is calculated to the customer being charged.
- Provide guidance on what constitutes a fair and reasonable reconnection fee, and request that suppliers publish a breakdown

of how a reconnection fee is calculated on request of a fee.

- Consider introducing SLCs for non-domestic customers concerning security deposits, based on aspects of SLC 27, ensuring that further guidance is issued to outline a definition of 'reasonable.' For example:
 - "A supplier cannot require a security deposit if it is unreasonable in all the circumstances of the case to require that customer to pay a security deposit."
 - "A security deposit must not exceed a reasonable amount." Where a reasonable amount is defined by 3 months actual or estimated usage, or 25% of an outstanding debt.

We recognise concerns expressed by some sector voices that introducing too much regulation in the non-domestic sector around contracting and contract renewals might hamper competition and innovation. However, much of the good practice that these recommendations promote is already carried out by responsible energy suppliers and will not result in significant process changes. Introducing regulation to increase transparency and ensure reasonable security deposits will only have the effect of improving or eliminating poor practice and bad actors.

Such is the extent of the harm witnessed, that we believe it would not be unreasonable to introduce regulation in this area. There should be no circumstances in which responsible suppliers wish to request security deposits where it is unreasonable to do so, or that are unreasonably high. We therefore anticipate that legislating on such basic requirements will have minimal impact on competition.

It must be noted that there have been concerns expressed by hospitality consumer bodies that hospitality businesses have been having additional difficulties obtaining contracts for energy. Removing energy suppliers' abilities to request unreasonable security deposits must not be allowed to worsen this situation. Ofgem should continue to work with industry and energy suppliers to ensure that no businesses are unfairly treated on the sole basis of their sector or their size.

b. Alternatives to Security Deposits:

Citizens Advice is aware of at least one supplier that does not request security deposits from their small and medium sized business customers. To manage risk in its place, they include the optional or force-fitting of prepayment meters in their debt recovery processes.

We do not currently have sufficient understanding of outcomes for customers who have been offered this repayment method to recommend it as a potential alternative to high security deposits. Ultimately, regulation that creates an improved and consistent standard of customer service in this area would be a more sustainable option.

However, from our evidence, it is often the combination of debt repayment, security deposit and reconnection requests that create an insurmountable cost for the small businesses in question. PPMs, though not without risk, could provide a way for the business to focus on one cost only and could increase their ability to stay on supply, as opposed to outright disconnection. However, as with the domestic sector, the force-fitting of a prepayment meter may simply shift the 'disconnection switch' from the supplier to the customer, and make no real impact on their ability to repay debt.

If more suppliers begin to consider prepayment meters as an alternative to security deposits for their small and microbusiness customers, then additional guidance will be necessary to ensure that all customers are treated fairly, and that they can move back to credit meters once the debt is cleared. Extra steps should be taken to ensure that, where prepayment meters are fitted at mixed-use properties, there are no vulnerabilities present that would make a prepayment meter unsuitable for the premises.

Q5. What issues are you aware of businesses having in relation to deemed contracts.

It is currently not possible to track Consumer Service cases with a specific 'deemed contract' code. Issues regarding deemed contracts are often categorised under our Advice and Information or Billing Error codes, due to the interrelated nature of these cases. It is therefore likely that the analysis used in this section will underestimate the numbers of customers struggling with issues related to deemed contracts.

However, deemed contracts are clearly a significant issue for our non-domestic clients:

Between April 2022 and February 2023, the Consumer Service received 4216 cases from non-domestic customers. Of these, 11% (481) mentioned deemed contracts.

The issues that consumers experience with deemed contracts roughly split into two interrelated problems:

a. The customer was unaware that they had moved onto a deemed contract, and could not afford the increase.

Under SLC 7. 8 (A), a supplier must provide their customer with a Statement of Renewal document, 60 days prior to their fixed tariff ending. However, our data suggests that this is often not occurring⁵, or where it does occur, the document does not sufficiently make consumers aware of their choices after their contract ends.

There is currently no licence condition in the non-domestic sector that encourages suppliers to provide information that would help a microbusiness customer re-contract onto a more beneficial tariff. Currently, when a fixed-term contract ends, suppliers are only required to send out a Statement of Renewal that contains the Principal Terms of their current tariff.

The Supply Licence Conditions that protect Domestic consumers mean that suppliers must make information available that allows customers to easily compare and select appropriate tariffs, and requires that all tariffs be made available to new and existing customers. Such conditions do not apply in the non-domestic market. Considering that deemed contracts can be more expensive than fixed rates and therefore more profitable for suppliers, there is little incentive for suppliers to voluntarily provide such information.

To ensure that microbusiness customers can engage fully in the market, end of contract documentation should clearly explain the different options available to the consumer, in addition to explaining what will happen to a customers' tariff if they choose not to act. Citizens Advice would strongly encourage more guidance and legislation in this area, to help ensure suppliers make it clear when other tariff options are available.

Given the variation in energy consumption in the wider non-domestic sector, Citizens Advice can appreciate that such detailed and prescriptive end of contract documentation would not be appropriate for larger businesses who are

⁵ Regarding customers not being provided with required documentation when their fixed term contract comes to an end: We do not currently have enough evidence to demonstrate without doubt that customers are not receiving end-of-contract documentation before being moved onto a deemed contract. However, considering the volumes of cases received from consumers expressing confusion about changing rates, we are concerned that this documentation is not arriving in some cases.

more likely to be on bespoke tariffs. However, considering microbusinesses' more limited ability to engage in the market, having further information available on different offers will be beneficial. Increasing the choices available will also have the added benefit of increasing consumers' ability to switch, thereby encouraging competition.

- b. The customer had fallen into debt on a deemed contract due to the high prices, and is now struggling to re-contract on a cheaper tariff due to high upfront demands and security deposits being demanded. This can trap the customer in a debt cycle, particularly where deemed prices are higher than market conditions.**

It is not clear from our data whether the high prices customers are experiencing are higher than is explained by market conditions and are therefore being artificially inflated. We support the current compliance and enforcement action that Ofgem is undertaking in this area, and encourage its continuation as wholesale prices drop, to ensure that customers are always being charged a fair price for their energy.

Where a customer has got into debt since being on a deemed contract, but was previously paying for their usage on time, suppliers should consider engaging with the consumer to negotiate an affordable repayment plan, and should consider whether high security deposits are appropriate.

Q6. Are there any other matters not discussed above relating to pricing and contractual behaviour that you would like us to explore?

There are two further issues that we would like to discuss in response to this question:

- a. The combination of high-pressure verbal contracting practice and a lack of a cooling off period leave customers vulnerable to poor practice:**

Our Consumer Service data provides clear examples of consumers being misled or pressured into contracts over the phone. Due to the current lack of a cooling-off period, customers are then not able to extract themselves from contracts that they did not want to agree to. The following case studies provide good examples of where these contracting practices have caused harm:

Case Study: Markus

Markus was contacted by an agent, who claimed to be a representative of the company who had supplied the previous business owners. It later became apparent that this was a different company. During that first call, the representative spoke extremely quickly, and talked Markus into a verbal contract before he realised what was happening.

He cancelled his card, and called the supplier back the same day to try and stop the contract from going ahead. However, the supplier stated that Markus had verbally agreed to a multiple year contract, and that there was no way to cancel it. The supplier later tried to take an initial payment of over £1000, despite not having had meter reads. A further two payments were attempted of £600 and £900 each, despite Markus only having been contracted with them for a few days.

Case Study: Carmen

Carmen had come to the end of her 3 year fixed contract, and gave her notice to leave so that she could switch away. However, she was then rolled onto another multiple year contract. When Carmen rang to complain, the supplier stated that they had a voice recording of her agreeing to the contract. However when Carmen asked for the recording, the supplier did not respond.

In addition to case studies such as this, we have heard anecdotal evidence of suppliers editing call recordings. However, further investigation into these claims is needed to verify them.

It is clear that the additional protections introduced over the years to try and stop sharp practice in this area haven't delivered the changes needed. It is worth considering whether it is time for a minimum cooling off period to be introduced. Citizens Advice would also support the introduction of licence conditions similar to SLCs 25.4 - 25.6 that would apply to non-domestic

customers.⁶ These SLCs protect domestic consumers from misleading and inappropriate sales tactics, and ensure that suppliers maintain a record of any contracts entered into via face-to-face marketing activities or telesales activities.

b. Lack of consumer engagement in the sector can pose challenges for consumers and suppliers.

Both Citizens Advice and Ofgem have previously acknowledged that many microbusinesses are considered to be disengaged in the non-domestic energy market.⁷ As well as being less engaged with their suppliers, we also see relatively fewer cases from non-domestic customers across our advice services. In February 2023, we saw 15171 Consumer Service contacts from domestic customers, and 731 from non-domestic customers, meaning contacts from microbusiness customers made up only 5% of the total contacts.

Being disengaged means that a customer is less likely to search for a better deal, and is also less likely to engage with their supplier when something changes or goes wrong, leading to complex issues that are harder to resolve.

Citizens Advice has recently worked with Ofgem to provide more advice for microbusinesses on our website, updating our pages on [switching](#) and what to do if a [small business is having affordability issues](#). We would be happy to continue working with Ofgem and other groups to increase engagement further and help customers improve their outcomes.

Q8. Are suppliers following the best practice steps around debt management and disconnection that we highlighted in our December 2022 letter or do you think that the licence conditions

⁶ From Section B: Standard Conditions for Domestic Suppliers: Domestic customer protection: 25.4 The licensee must not, and must ensure that its Representatives do not mislead or otherwise use inappropriate tactics, including high pressure sales techniques, when selling or marketing to Domestic Customers.

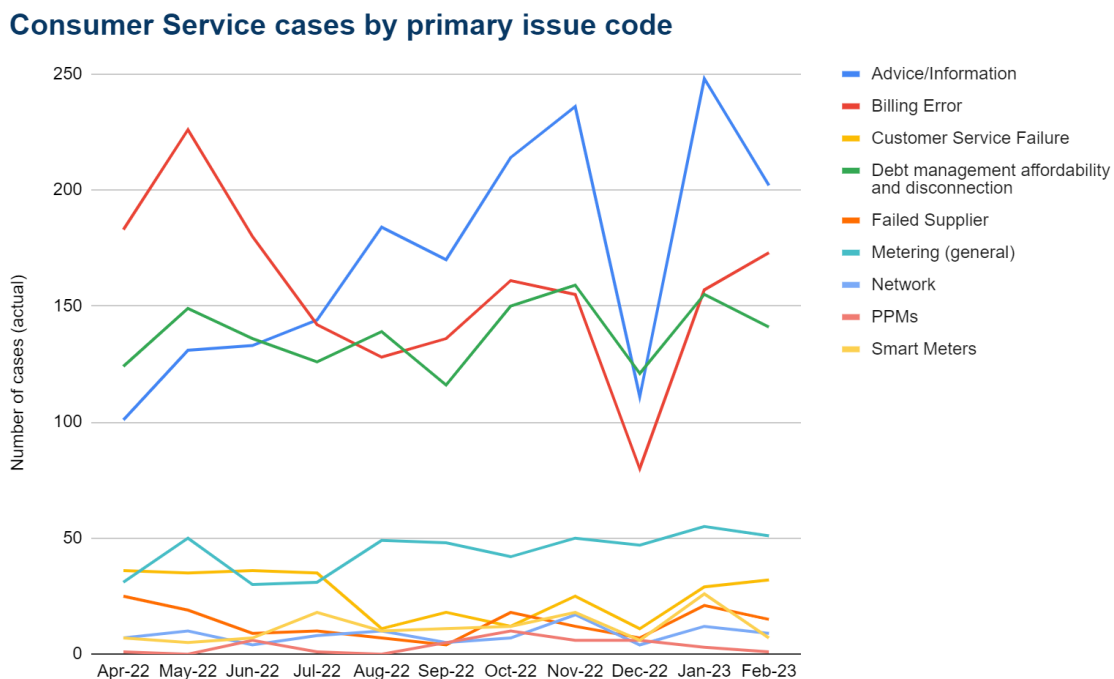
25.5 The licensee must only Recommend and must ensure that its Representatives only Recommend, to a Domestic Customer Tariffs which are appropriate to that Domestic Customer's characteristics and/or preferences.

25.6 Where a Domestic Customer to whom the licensee or any Representative has provided information in the course of Face-to-Face Marketing Activities or Telesales Activities enters into a Domestic Supply Contract with the licensee, the licensee must maintain a record of the information which it provided to that Domestic Customer concerning that Domestic Supply Contract in accordance with this licence condition for a period of 2 years.

⁷ Citizens Advice, [Getting Through to Business](#), 2020 and Ofgem, [Non-Domestic Consumer Research](#), 2022

need amending? Please provide evidence for your views and details of any specific examples.

Debt management, affordability and disconnection cases have remained steadily high since the beginning of last year, and continued to make up over 20% of cases in February 2023. (fig.1)



(Fig 1. Total consumer service cases by primary issue code Apr 22-Feb 23.)

Although numbers are currently stable, we are concerned that levels may spike over the next few months as Energy Bills Support is reduced.

Considering this prediction, we agree with Ofgem that it is more important than ever that non-domestic suppliers treat their customers fairly when engaging with them about payment difficulties, and are very supportive of the good practice expectations for non-domestic suppliers outlined in their December 2022 letter. However, we are consistently made aware of instances where suppliers do not meet these expectations. Because of this, we do not believe that current regulations go far enough to protect customers, particularly regarding the negotiation of affordable repayment plans, security deposits and debt disputes.

This section of our response highlights some case studies from our consumer service data, where we don't believe good practice expectations outlined by

Ofgem are being met. Due to resource and space constraints, case studies are not provided for every one of Ofgem's recommendations. However, separately to this consultation response, we will provide Ofgem with a dataset containing all non-domestic consumer service cases coded with the debt management, affordability and disconnection issue codes. These cases will provide excellent additional insight into the experiences of microbusinesses struggling with debt. The case studies provided alongside the recommendations below are all from February 2023.

Recommendations outlined by Ofgem in their 2022 letter to suppliers, and evidence of expectations not being met:

- a. "All suppliers should have a clear and transparent debt collection process for their non-domestic customers."

Raya had previously been referred to the Extra Help Unit as she was struggling with debt, and they helped her set up a repayment plan with her supplier, paying £300 over a few years. However, recently the supplier has tried to take the remaining debt balance of over £1000 in full. To prevent this, Raya had to cancel her direct debit. Her supplier is now threatening disconnection in less than 7 days. Raya can afford to pay her bill and the repayment plan, but can't afford this upfront payment.

- b. "A minimum of 7 days written notice should be provided ahead of disconnection or prepayment installation. That notice cannot be given until 28 days have passed since a written demand for payment was made."

Mohammed's business was recently disconnected. He had been experiencing no problems paying the bills, but had paused payments while a dispute was ongoing and he was waiting for a discount to be applied. He received no notice of the disconnection at all.

- c. "We would also expect suppliers to go beyond these requirements as good practice. For example, to introduce and implement bespoke repayment plans that take account of the individual business needs and being flexible on collections paths, depending on the customer situation."

Gareth owns a small business, and has been disconnected for a debt of around £1500. He paid over a third of this amount to his supplier, but he has been asked to pay the equivalent of 6 month's energy usage in order to reconnect the supply. Gareth could pay the debt back over time, but he can't afford the upfront payment. But without electricity he can't make any further

income.

- d. "Suppliers should support their customers by considering their customers' ability to pay (including the appropriateness of extended payment plan timescales, whether they are on the best tariff (for instance a fixed tariff rather than out of contract rates), and if not, whether reasonable adjustments could be made and tailoring any payment plans to their affordability."

Laylah has run a small business for 5 months, and always provided meter readings. In the stress of setting up the business, she did not arrange a fixed contract with her supplier, and has been on out of contract rates. The out of contract rates are so high that she has already fallen into debt and will be disconnected in 28 days. She could afford to pay a lower rate, but now that she is in debt she's not able to get on a contract.

- e. "We would expect suppliers to engage in reasonable communication with customers when starting down the debt and disconnection pathway, to remain approachable and not engage in scare or strong arm tactics. Debt communications, especially in the early stages, should be written in a supportive tone and focus on engaging the customer."

Michael feels that he has been mis-sold into a tracking contract. He had thought he was on a fixed-term contract for four years, but recently his bill jumped up by over 350%, and he is now paying over 80p/kwh. He contacted his supplier to see if he could change tariff, but his supplier stated that there was nothing he could do about it other than pay 6 months estimated bills upfront to leave his contract. Michael can't afford the 6 months upfront, but paying the rates he is currently paying is endangering his business.

As can be seen in the above case studies, issuing good practice guidance does not currently go far enough to ensure that good practice is carried out. In light of this, we would strongly support any changes to licence conditions which would help ensure that the smallest businesses are given the right help to manage their debt.

Where current licence conditions do provide protection, Ofgem should continue their enforcement work to ensure that suppliers are complying with the conditions. In particular, Ofgem must ensure that suppliers are adhering to statutory timescales around disconnection.

If Ofgem does consider further regulatory changes, we would like to see these focus on the following areas:

- a. Customers in payment difficulty:
 - Where a customer is in payment difficulty, suppliers must work with the customer to establish a realistic repayment plan.
 - Payment plans must take into account the size of a customers' energy debt, their income and other debts and expenses.
- b. Disconnection as a last resort:
 - Before disconnecting a property, suppliers must arrange for a site visit.
 - This will provide another opportunity for the customer to engage with the supplier, and for the supplier to ensure that there are no vulnerabilities present if the customer also lives at the property.
- c. The protection of domestic customers on non-domestic energy tariffs:
 - Where a supplier is aware, or becomes aware, of a shared domestic premises then they should take extra care to work with the customer to achieve an affordable debt repayment plan.
 - Where the premises includes one or more people in vulnerable circumstances, then disconnection must be avoided.

Q9. Are suppliers' complaints processes easy to find on their websites or elsewhere? Do you believe we need to strengthen the rules around complaints processes?

After performing an audit of a sample of suppliers' websites, it appears that most suppliers' complaints contact details are easily accessible from the website homepage and information on the complaints handling procedure is clearly signposted.

However, our case notes show that many clients from the Consumer Service and Extra Help Unit have already contacted their supplier with their issue before turning to us. This shows that customers sometimes struggle to get a resolution from their supplier, and need extra support.

Considering this, and given microbusinesses' lower level of engagement in the market and the barriers faced by this consumer group, Citizens Advice would support any strengthening of the rules in relation to suppliers' complaint processes and controls. Any future guidance should help ensure that communications to customers in relation to complaints are accessible, clear and complete.

We would also like to see more engagement with our advice services from microbusinesses, and would welcome help from both suppliers and other organisations such as Ofgem and OS:E. In particular, we would welcome a formal requirement on suppliers to signpost to us on their bills, and for the OS:E to introduce signposting processes that would direct microbusiness customers to us should they get in contact with them.

Q11. Do you think the issues around Change of Tenancy/ Occupier are significant? What potential solutions would you suggest to address the perceived shortfalls in the existing CoT and CoO processes, that do not exacerbate the potential for fraud.

The issues around Change of Tenancy/ Change of Occupier are extremely significant. Consumer service cases where a CoT/CoO is causing problems for the customer made up around 7% of contacts in February 2023. However, this is an underestimate, as we do not currently have a separate issue code to capture CoT/ CoO cases alone. Many of the cases within our most common issue codes also concern customers who have recently moved into a property.

Citizens Advice recognises from engaging with suppliers that a lack of consumer engagement can exacerbate issues in this area. If a consumer doesn't inform their supplier that they have taken over or left a lease in a timely manner, then it is more likely that they will experience problems with billing and debt collection.

We also appreciate the importance of preventing fraudulent activity in this area, and recognise that suppliers' need to request documentation to ensure the CoT/ CoO request is genuine.

However, some suppliers are not responding appropriately to this risk, creating excessive and prohibitive CoT/ CoO processes that are preventing legitimate tenants from contracting. In some cases, we are concerned that suppliers are using their CoT processes to recoup bad debt accrued by a previous tenant.

It is clear that, where customers do inform suppliers that they have changed tenancy, there are still significant issues. For example:

- 1. Customers are chased for debt that a previous tenant owes.** One customer was even being pursued for debt for a tenant that had passed away.

- 2. Debt collection and disconnection activities are not paused when a customer flags that they are a new tenant, and suppliers do not allow the customer time to gather the necessary documentation.**

This puts pressure on the customer to pay the debt amount in order to prevent bailiff activity or disconnection.

- 3. New tenants are often charged extremely high security deposits as a result of a previous customers' debt.** Six customers identified from our consumer service data were charged an average £6000 security deposit, despite being new tenants and not owing any money.

- 4. The documentation requested by suppliers to prove a CoT/ CoO is excessive and inconsistent.** There is no recommended set of documentation that a new tenant is required to present to their new supplier, meaning that practice varies hugely between suppliers, and even between customers. One Consumer Service client reported being asked for six different kinds of documentation, some of which they would not be able to obtain as a new business.

The case study below provides more detail from Simon's story (page 7), showing how issues with the CoT and security deposit processes can combine to create an impossible situation:

Case Study: Simon

Simon needed to prove that he was a new business owner, as he had recently taken over a premises but was being charged for an old tenant's debt.

His supplier asked him for many documents to prove his tenancy, including business rate documents, ID, meter readings, a copy of the lease, a solicitor's letter, landlord contact details and a food hygiene certificate. It could take Simon weeks to obtain some of these documents as a new business, and the supplier themselves confirmed it would take an additional 21 days to validate the documents once they had been received. However, they have not paused the collection process in any way, meaning that Simon must pay the debt or be disconnected.

Considering the extent of detriment that a lack of guidance around the CoT/ CoO processes is currently causing, Citizens Advice recommends that Ofgem urgently look into developing good practice guidance to help establish standard

processes. It is possible that further regulation may be needed, particularly to protect consumers being pursued for debt they do not owe. Citizens Advice would welcome any opportunity to feed into relevant conversations and share our insight into this issue.

Q15. If we expanded the definition of microbusiness customer or created a new class of customers, what are the possible implications and costs of doing this?

Citizens Advice recognises the concerns set out by Ofgem that many Small and Medium sized Enterprises (SMEs) are vulnerable to the risks outlined in the Call for Input. SMEs would therefore also benefit from being able to access certain supply licence conditions that are currently microbusiness-specific, such as access to qualifying Alternative Dispute Resolution schemes.

We further recognise that the current microbusiness definition could exclude small businesses that have disproportionately high energy usage. For example, a business with 8 employees who uses just over 100,000 Kwh of electricity a year is not more likely to have the resources to engage with the energy market than a business with 8 employees who uses less electricity. These businesses would also benefit from the additional protections afforded to microbusiness consumers.

However, much of this consultation response is concerned with what Citizens Advice sees as insufficient protections for microbusiness customers. In many of the cases highlighted, microbusiness customers experience additional difficulties due to lower financial resilience and fewer resources. Most of the businesses that contact our advice services are on the smaller end of the microbusiness definition, and most have affordability issues that exacerbate their negative interactions in the retail market. Businesses with turnovers of more than €2 million a year are not as likely to experience such a high level of detriment when faced with high bills or unexpected costs.

In addition to financial constraints, the current definition of microbusinesses covers a group of customers with very specific needs and who have particular issues in interacting with the market that are not faced by other SMEs. For example, issues with mixed use properties, where a business and a domestic household share the same meter point, are specific to current microbusiness definition.

Further, microbusinesses are less likely to have a dedicated employee who takes care of energy within the business, and are less likely to be on fixed contract and more likely to not know what type of contract they have.⁸ This means microbusinesses are more likely to face issues when agreeing contracts than other SMEs.

Taking these points into account, Citizens Advice believes that microbusinesses as identified by the current definition require additional protections that may not be as necessary for larger companies. Expanding the definition of a microbusiness could make it more difficult to introduce new protections for the customers that need them the most.

Considering this, Ofgem's first priority should be to strengthen protections for microbusiness customers, before considering whether these protections should also be provided to larger businesses.

Another possible approach to expanding protections would be to create a new group, separating microbusinesses, SMEs, and then larger businesses. This would allow proportionate regulations and guidance to be applied where appropriate, without losing sight of characteristic vulnerabilities.

Further modelling and research is needed to identify the types of businesses that could be brought into the microbusiness definition should it be expanded or changed, and to consider what the impact on the current cohort would be.

Q16. What additional protections do you think might need to be put in place to protect domestic customers who are supplied via a non-domestic contract? Please provide an explanation or evidence of the areas of harm any new regulation would protect against.

Analysis of Consumer Service data has demonstrated two main areas of detriment experienced by domestic customers supplied by a non-domestic contract:

a. Customers experience difficulty moving off of a non-domestic contract, particularly if they have accrued debt.

Some suppliers have set processes in place to help customers that wish to move onto a domestic contract. The best of these processes include:

⁸ Ofgem, [Non-Domestic Consumer Research](#), October 2022, p32

- Proactive validation that a customer is a true domestic customer;
- Application of a specific tariff that is similar to domestic rates;
- Not preventing the customer from leaving if they have arrears on their account, and entering into a repayment agreement with them.

To prevent fraudulent behaviour, these policies also:

- Request copies of documentation such as council tax bills to prove that the property is domestic, if the supplier can't validate the claim from their own checks;
- If the customer chooses not to move supply away six weeks after support has been provided, then they will be returned to standard deemed rates.

However, many customers have inconsistent and negative experiences when trying to change from a non-domestic contract to a domestic contract. There is often a lack of clarity about what a customer needs to do to switch, and there is no obligation on the supplier to provide guidance. If the customer has accrued debt, then the supplier will often block the switch, leaving them stuck on an expensive tariff or deemed rate - leading them to accrue even more debt.

We would be supportive of Ofgem introducing standard guidance on how to support domestic customers who wish to move away from a non-domestic contract, including the good practice outlined above.

Case Study: Karen

Karen brought a property to rent out to domestic tenants, but discovered that the property used to be a business. When she contacted her supplier, they told her that she had to sign up to a business contract, and that she wasn't allowed to be on a domestic contract. When her tenants moved in, she raised a formal complaint, but her supplier said that she had to stay on her current contract.

- b. Many domestic customers don't have a choice but to remain on a non-domestic contract, either because they live on their business premises, or because they are a tenant on a site supplied by a landlord's non-domestic contract. These customers are particularly vulnerable to higher prices and more stringent debt and disconnection practices. This has the potential to cause real harm to consumers if they are vulnerable.**

We think that anyone who lives in a mixed-use premises should receive the same protection from disconnection, regardless of whether they are on a domestic or microbusiness contract, and would be supportive of additional guidance in this area. Additional guidance should cover actions such as agreeing fair repayment plans, or offering smart meters to help manage usage.

In terms of additional regulation that Ofgem might consider together with the Government, we recognise that it might not be possible to protect this group with the same Licence Conditions enjoyed by customers on domestic contracts.

However, we feel that groups of customers who do not choose to be supplied by a non-domestic contract - particularly those in blocks of flats or in park homes - often experience unfair outcomes. For example, this has been seen with the roll-out of the EBSS voucher scheme: Customers on prepayment meters installed by landlords on a business contract were simply not entitled to any support. In some cases, an alternative fuel voucher scheme has now been made available to them, but only after the worst of the winter had passed. This is particularly unfair considering that many of these customers were not protected by the price cap, and in some cases were exposed to the highest prices.

Our data does not provide sufficient information to confidently state how many customers have been affected by poor outcomes due to the circumstances outlined above. However, the gap in regulation that permits the detriment to occur is unacceptable. Ofgem and Government should work together to consider how best to protect vulnerable people living in sites supplied by a non-domestic contract, including private tenants, park home residents and care home residents.

Case Study: Mira

Mira lives on her premises with her young son and elderly father. Both the son and father have severe health problems, and receive benefits. Mira believes that her meter became faulty, and she contacted her supplier. They made an appointment but didn't attend. She's been trying to raise a complaint since then but can't get a response. She can't keep up with the payments which have more than doubled, but continues to pay a significant amount each week. Despite these payments and her outstanding complaint, her supplier is threatening disconnection.

Case Study: John

John lives in a block of flats. His landlord has the whole property supplied by a business contract, so John didn't receive any of the Government vouchers. His landlord received one payment, and said that he was going to split this between the tenants.

Q17. Do you agree with the definition of, and clarifications round, what is a domestic customer as described in Appendix A? Are there other areas where further clarification is required?

Our response to question 16 outlined some of the detriments faced by domestic customers who are on non-domestic contracts. In most circumstances, these customers would not qualify as a domestic customer under the definition in Appendix A as they would not meet criteria (a) or (c).

In the examples of park home residents, or tenants in flats where the landlord manages separate sub-meters, the individual living in the property experiences energy consumption as any other domestic user. For example, they have access to only one meter point, and agree via their tenancy contracts that the premises are not commercial in nature. It does not seem fair that these customers lose access to the additional protections afforded to domestic consumers under the supply licence conditions.

Two potential solutions could be considered to help better protect domestic customers in these situations:

- a. The definition of a domestic customer could be simplified, to better encompass customers who do not have direct control over their contracts. For example, a domestic customer could be defined under criteria (b) and (d) only. This would effectively create an option for landlords or park owners to enter into 'mass domestic' contracts on behalf of their tenants. Further consultation with suppliers and landlords would be required to understand feasibility, but could potentially lead to better outcomes for this consumer group.
- b. Ofgem could introduce stricter regulation that would bring current debt and disconnection guidance for non-domestic customers more in line with that that protects domestic customers, thereby offering a blanket protection for those on non-domestic contracts. However, from initial

discussions with stakeholders, this option is more likely to be met with resistance, and is less likely to be feasible for many non-domestic suppliers.

We recognise that either of the options outlined above are complex and would need further investigation. However the recent energy price crisis and rollout of the EBSS scheme has highlighted just how easy it is for this customer group to slip through the cracks, and we would be happy to contribute to further discussions on how to improve outcomes in the future.

Other points not covered in the Call for Input questions

In our response to Ofgem's Microbusiness Strategic Review Call for Evidence, we previously highlighted a number of issues that do not fall into scope for this Call for Input, but that have not yet been fully addressed. Some of the recommendations made continue to be relevant, and should be considered as part of any action that arises out of the Call for Input:

a. Cooling-off periods for non-domestic customers

In agreement with Ofgem, we continue to believe that a cooling-off period could provide valuable protection for microbusiness customers who feel that they have been pressured or misled into a contract.⁹ While we understood the initial decision not to proceed with implementing a cooling off period, we believe that this conversation should be revisited as soon as possible.

b. Supplier of Last Resort

Considering the financial pressure that small businesses and some suppliers continue to be under, it would be beneficial to review existing licence conditions that cover the Supplier of Last Resort Process for non-domestic customers. We continue to recommend that Ofgem should ensure that microbusinesses credit balances and security deposits are protected, and that they are returned to customers as soon as possible after a supplier failure.

c. Vulnerability:

We have previously called for more consideration of vulnerabilities in microbusiness¹⁰, and continue to see a need for protection from disconnection

⁹ Ofgem, [Decision: Microbusiness Strategic Review](#), 2021

¹⁰ Citizens Advice, [Call for Evidence Response](#), 2020

for those living in mixed use premises. The energy price crisis has exacerbated issues for vulnerable customers on non-domestic contracts, with many finding that they are unexpectedly excluded from bill support, or exposed to high prices.

d. Additional regulation of Third Party Intermediaries:

In the Call for Input main document, Ofgem stated that the regulation of brokers is outside of their remit. However, we still think that there is much more that Ofgem could do to help promote good, uniform practice in this area, such as extending relevant licence conditions to include suppliers “and their representatives.” Our [Stuck in the Middle](#) report on how to improve protections for people using third party intermediaries outlines multiple options for regulation, including voluntary schemes and licensing. We would be happy to contribute to further discussion around where the regulation of brokers should lie and what this could look like.

Emerging issues

We have been particularly concerned by recent analysis of escalating bad debt amongst energy suppliers.¹¹ Having previously seen how a lack of financial resilience can contribute to supplier failure,¹² we are concerned that insufficient attention to this issue may precipitate further supplier failures.

However, this risk must be balanced against the recognition that microbusinesses are going to be struggling with high energy costs for the foreseeable future, and are facing increasing insolvency rates.¹³ Small businesses are a vital part of our social and economic landscape, and will need targeted support in order to survive. Without it, the risk of unmanageable bad debt increases.

Conclusion:

Through engagement with suppliers, Citizens Advice has seen examples of good practice in the non-domestic sector. Many suppliers engage responsibly and proactively with their microbusiness customers, and have introduced new policies and procedures in response to challenging times. However, despite a

¹¹ Cornwall Insight, [Bad Debt and Energy Suppliers: A systemic risk](#), 2022

¹² Citizens Advice, [Market Meltdown](#), 2022

¹³ The Insolvency Service, [Commentary - Monthly Insolvency Statistics February 2023](#), 14/03/2023

plethora of existing guidance and good practice guides published by Citizens Advice and Ofgem, contacts to the Consumer Service detailing harmful behaviour continue to increase. Many of the topics within this call for input cover new and developing issues, and we look forward to working closely with Ofgem, Government and suppliers to ensure the best possible outcomes for microbusiness consumers.