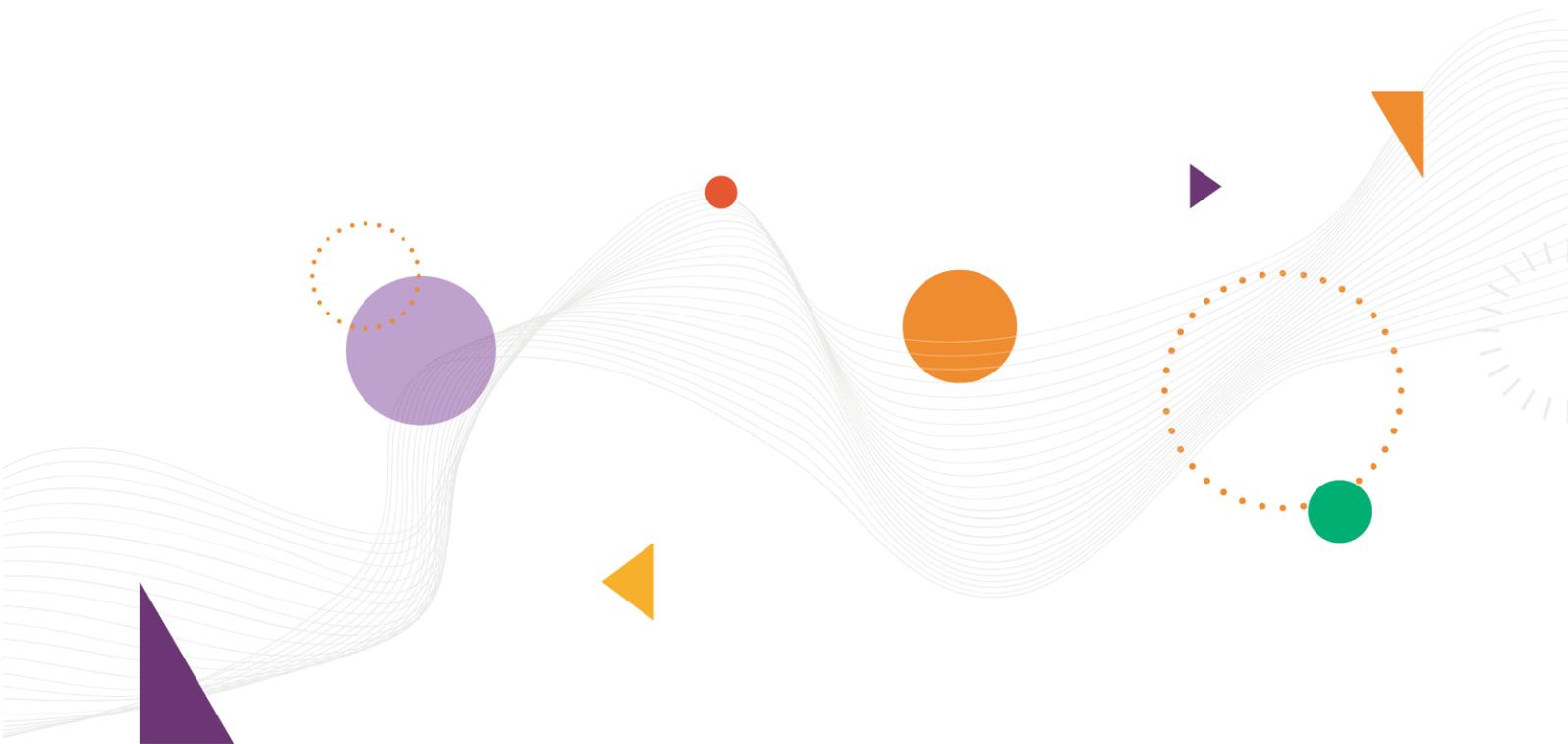


StepChange response to Ofgem consultation on involuntary PPM

July 2023

Contact: ed.mcdonagh@stepchange.org and policy@stepchange.org

StepChange Debt Charity London Office Floor 3,
27 Queen Anne's Gate, London SW1H 9B



Summary

We welcome Ofgem's proposals to incorporate key elements of the Involuntary PPM Code of Practice into Supply Licence Conditions and detailed elements of the Code into the Safe and Reasonably Practicable guidance on involuntary Prepayment Meter (PPM) installation. These steps demonstrate Ofgem's recognition of the severe affordability challenges faced by consumers and the fact that existing safeguards have failed to protect vulnerable households from inappropriate PPM installation and harmful debt enforcement.

The proportion of StepChange clients in energy arrears has continued to rise as high energy prices persist. 35% of StepChange clients had energy arrears in the first half of 2023, up from 19% in 2019. The average amount of energy arrears is now £1,679, up from £1,056 before the pandemic.

Clients with a PPM make up a quarter (24%) of StepChange clients and their circumstances are uniquely challenging. Despite high instances of additional vulnerability and deficit budgets among this group, these clients are more likely to have faced intrusive enforcement and payment demands that lead them to ration their energy use and self-disconnect.

We welcomed the new involuntary PPM Code of Practice and the steps set out in the Code to better protect those struggling with energy affordability and additional vulnerabilities against inappropriate forced PPM installation/switching and improve standards of responsible debt collection in the energy market. We also strongly welcome Ofgem's steps to meet its commitment to move the Code into licence conditions.

This noted, we have concerns about elements of the proposals that risk weakening the impact of the Code and continuing to expose consumers in financial difficulty and/or vulnerable situations to poor outcomes:

- Paragraph 3.14 of the proposed licence conditions (the Precautionary Principle) gives suppliers discretion to install a PPM in cases where they have been unable to confirm the risks this would entail for a consumer. The proposed wording gives too broad discretion for suppliers to set aside key protections and is too vague as to how suppliers should reach judgements in the absence of conclusive information. Financial difficulty creates consumer vulnerability and engagement challenges that mean the operation of protections in situations in which engagement is difficult is crucial. The rules should be clear that the onus is on suppliers to show that a PPM can be installed safely and, where this has not been possible, forced installation should not proceed. Failing that, Ofgem should amend the proposed wording to strengthen expectations of suppliers in this situation and clarify monitoring and follow-up expectations.
- We also have concerns that there is insufficient prescription about how suppliers should assess ability to pay, determine proportionality of enforcement and the checks required for consumers who fall outside the new Further Assessment Needed (FAN) category.
- Given the vulnerability of the groups included in the FAN category and of customers experiencing payment difficulty in general, and difficulty to date achieving high standards of consumer protection in the energy market, we advise that groups in the FAN category should be moved into the 'do not install' group while the FAN requirements should be applied to all consumers (with strengthened wording).

- Ofgem’s acknowledgement that debt enforcement may pose greater risks for vulnerable groups than mandatory PPM installation demonstrates the need for Ofgem to strengthen its requirements of suppliers pursuing enforcement of energy debts. We would like to see similar protections in place to the proposed PPM rules and guidance for the use of High Court Enforcement Officers, with specific customer groups exempted from this form of enforcement.
- While new protections are welcome, evidence from StepChange’s advice service alongside the wider evidence base shows that supplier compliance and performance is patchy. A more effective approach to monitoring and enforcing compliance with conditions and guidance is essential to ensure higher standards are effective.
- More generally, rising energy debt levels and the desire of all stakeholders for improved safeguards for consumers highlight the urgent need for a long-term solution to address affordability challenges and support customers struggling with energy arrears. StepChange has supported calls for a government backed ‘Help to Repay’ payment matching scheme to clear bad debt arising from the present period of exceptional energy costs. As Ofgem and the government take forward discussions and consultation about the future of the domestic energy market, a key consideration must be establishing mechanisms to support good outcomes for customers in vulnerable situations with energy arrears.

Responses to questions

1. Do you agree with our proposals to integrate the Code into the supply licences?

We support Ofgem’s proposals to integrate the Code of Practice into supply licences. We welcome additional protections for consumers subject to forced PPM installation and placing these in licence conditions gives them the strongest backing. We particularly welcome the new safeguards and assessment criteria for suppliers prior to PPM installation and the requirement to provide credit when a customer has a PPM installed.

In the first half of this year over a third of StepChange clients (35%) had energy arrears. This figure has increased from under a fifth of clients (19%) in 2019. The average arrears per client has also increased dramatically, reaching £1,679 in the first half of this year up from £1,056 in 2019. Crucially, the financial circumstances of these clients are uniquely precarious. In the first half of this year nearly half (48%) of clients with energy arrears were in a deficit budget compared with a third (33%) of all StepChange clients. The average budget for these clients after a full budgeting assessment accounting for essential expenditure was -£143 compared to a £19 surplus for clients overall. This is a notable deterioration even from the second half of 2022 when 43% of clients in energy arrears were in a deficit budget and the average budget for this group was a deficit of -£67.

A quarter (24%) of StepChange clients have a PPM.¹ The financial challenges these clients face are compounded by additional vulnerabilities. 61% have an additional mental or physical vulnerability on top of their financial difficulties compared with 54% of clients using other payment methods. In this context, we welcome Ofgem’s efforts to improve protections with arrears and clients on a PPM.

¹ Figures for June-December 2022.

The new licence conditions integrate the 'Precautionary Principle' into the Safe and Reasonably Practicable guidance. We welcome the requirement for suppliers to take additional steps before installing a PPM, but we feel this principle is weakened by the wording of Paragraph 3.14. This gives suppliers discretion about progressing with involuntary PPM installation in cases where they have been unable to ascertain the level of detriment a household might face. Given the additional challenges facing households in financial difficulty that affect their ability to engage with suppliers, alongside existing supplier compliance failures, the proposed wording creates too much discretion for suppliers to proceed with installation after making a small number of attempts to engage with a customer. The wording is also too vague as to how a supplier should reach a decision as to whether to proceed in the absence of sufficient information.

We would like to see this paragraph re-worded, with suppliers prevented from installing a PPM in cases where they have been unable to confirm the risks this could entail (and, at minimum, for groups in the FAN category). If this is not possible, we would like to see greater clarity about the steps suppliers must take to establish the circumstances of a household (including contact attempts and the time over which such attempts should be made), and enhanced post-installation provisions where suppliers were unable to confirm a household's situation prior to installation. This should include, for example, closer monitoring for disconnection, further site welfare visits or increased credit provisions.

We are also concerned that existing licence conditions are not prescriptive enough in their provisions relating to debt and enforcement. Licence conditions do not prescribe a specific ability to pay affordability assessment and will still allow suppliers to demand an undefined 'reasonable default repayment rate' where it has not been possible to establish a bespoke affordable rate. This is not sufficient to safeguard against unaffordable payments being taken from financially vulnerable households. The Precautionary Principle proposals in the guidance require suppliers to start from the assumption that an individual has fallen behind due to financial difficulties, but without clearer expectations about how to assess ability to pay, this principle will not be enough to ensure these households are protected against steps that compound their financial difficulty.

The existing licence conditions require suppliers to apply proportionality in enforcement, without defining what is meant by proportionate. Given the propensity for individuals falling behind on energy bills to be facing extreme financial difficulty and their likelihood of experiencing additional vulnerabilities combined with the wider affordability context, we would like to see more prescription in these conditions. Recent evidence from the Ministry of Justice shows that in some years up to 50% of High Court Enforcement cases are for utility debts, with 83% of their cases for debts of less than £2,000. Given the average arrears for StepChange clients with a PPM is approaching £2,000, we think this suggests suppliers are interpreting the proportionality principle too loosely. Supplier licence conditions would benefit from greater prescription to ensure Ofgem fulfils its objective of ensuring households do not face inappropriate and unfair enforcement methods.

The consultation document discourages suppliers from writing off debt that would otherwise have been enforced through PPM installation while at the same time acknowledging that debt enforcement methods like bailiffs could be more harmful for vulnerable households than having a PPM installed (page 8 and paragraph 1A.12). Evidence from StepChange clients shows increasing numbers falling into energy debt and these debts growing increasingly large. Given the high proportion of these clients facing a deficit budget, it is likely that they are struggling to cover ongoing usage let alone repay arrears. The reality is that a considerable portion of debt accumulated over the last 12 to 18 months will be unpayable through

responsible debt collection practices. For households unable to repay energy debts affordably while meeting ongoing essential costs, neither forced PPM installation nor traditional debt enforcement is appropriate.

Finally, new licence conditions must be accompanied by a proactive monitoring and enforcement regime that prevents continued misconduct from suppliers. Evidence suggests suppliers have not been meeting existing licence condition requirements and that Ofgem has not enforced these rules effectively. In the last month alone, StepChange has received numerous examples of suppliers' failing to meet existing licence conditions from our advisers working on the frontline supporting clients who have fallen behind.

Case study

'The client was not offered a way to repay debt before receiving notice that a prepayment meter would be installed. The client is disabled with severe mobility restrictions that mean she will not be able to top up her meter at the shop. She does not feel able to navigate the mobile top-up app. Despite disclosing these vulnerabilities with her supplier, she felt she was not listened to.'

Case study

'The client, who has cancer and suicidal tendencies, was moved onto a PPM despite being registered as vulnerable by her supplier. Cancer treatment left her housebound and unable to top-up her meter. She was left disconnected several times over the winter as a result. The supplier committed to moving her back onto monthly direct debit but instead the client began receiving multiple calls a day demanding repayment of £1,000 arrears.'

Given the prevalence of cases like these, it is difficult to have confidence that new licence conditions will provide the necessary protections for consumers. We would like to see a clear plan from Ofgem as to how it will effectively monitor and enforce new conditions as well as ensure there is adequate redress for those who have experienced inappropriate PPM installation in the past.

2. Do you agree with our approach to integrating the relevant parts of the Code into the Safe and Reasonably Practicable guidance?

We are happy to see the Safe and Reasonably Practicable guidance strengthened with the new protections. The new assessment requirements are a useful and generally thorough starting point for expectations of suppliers. However, we are concerned that elements of the guidance lack the necessary levels of prescription to be effective, and about whether new provisions will be effectively enforced. The assessment requirements for the FAN are welcome but, given the level of vulnerability typically present in households affected, we would like to see these applied for all cases where mandatory PPM installation is being considered, and households currently in the FAN category moved into the 'do not install' category. We still feel the wording of the guidance gives suppliers scope to install PPMs without having ascertained either a household's vulnerability or whether they can afford ongoing usage.

We welcome the Precautionary Principle and assessment requirements for the FAN category (with reservations detailed below). However, we are concerned that the guidance doesn't provide sufficient safeguards for those outside either the 'do not install' or 'further assessment needed' categories. For these households the guidance states that suppliers must 'be sure of the validity of the debt amount and

liability of any customer' and that in all cases suppliers 'must seek' to identify vulnerable customers. While we recognise licence conditions also place requirements on suppliers to check for vulnerabilities, we do not feel this wording is strong enough given the acute affordability challenges faced by all consumers and the risks posed by forced PPM installation.

In the first six months of this year, 48% of StepChange clients with energy arrears were in a deficit budget and nearly two thirds (62%) had an additional vulnerability. These pressures have led to the large increases in the proportion of consumers in arrears and the size of these arrears. In the last six months of 2022, 43% of StepChange clients with energy arrears were in a negative budget. This means we have seen a 10% increase in the proportion of these clients in a deficit budget in less than a year. Energy costs look set to remain high while inflation on basic goods continues to squeeze budgets even further. Ofgem's Precautionary Principle recognises that any customer faced with involuntary PPM installation is likely to be in financial difficulty and therefore more likely to disconnect. Given the risks of disconnection for all consumers, we feel this should be enough to make the FAN requirements standard in all cases of forced PPM installation.

We also feel that there is sufficient prescription in the ability to pay guidance on budgeting assessments to ensure consistent and fair calculation of whether these households would be able to afford ongoing usage before installing a PPM. We would like to see licence conditions (28.9) require suppliers to base affordability assessments on an objective budgeting standard, and guidance making reference to the Single Financial Statement as a point of reference. Ofgem should also use guidance to address the allowances suppliers should make for ongoing usage in affordability assessments. Without this clarity, we are not confident that affordability assessments made without the involvement of a third party like an advice provider will be sufficiently robust and provide sufficient protections.

We would also highlight how challenges of engagement mean the present wording of the Precautionary Principle licence conditions is too weak. Individuals who fall behind are likely to be wary of contacting their suppliers for fear of enforcement. The high incidence of vulnerability among this customer group means they are likely in complex and challenging situations and facing multiple payment demands; dealing with communications from an energy supplier is, for many, likely to be overwhelming.

While new provisions around the information that suppliers are required to provide are positive, StepChange research with clients has shown how people in financial difficulty often experience attempts at engagement as unclear, ambiguous or threatening; stress and mental health problems closely associated with financial difficulty also often exacerbate disengagement.

These challenges mean the strength of the Precautionary Principle is fatally weakened by paragraph 3.14, which gives suppliers discretion about whether to install a PPM if they've been unable to assess household circumstances. Given the challenges of engaging vulnerable households and the lack of effective monitoring and enforcement of suppliers, this discretion significantly weakens protections. Allowing suppliers to proceed with installation where they have not ascertained the circumstances of a household means there is still a high risk of consumer detriment despite the new guidance. As previously stated, we would like to see this paragraph re-worded, with suppliers prevented from installing a PPM in cases where they have been unable to confirm the risks this could entail or, at minimum, greater clarity about the steps suppliers must take before proceeding and to monitor and respond to outcomes post-installation.

We would also like to see stronger wording in the guidance about enforcement. Current wording requiring suppliers to ensure that alternative actions to recover debt are 'fair, reasonable and proportionate' are too vague to ensure adequate protections. We have frequently raised concerns that suppliers are using HCEOs inappropriately. In the consultation document Ofgem rules out a total ban on PPM installation as this could lead to suppliers using other forms of debt enforcement like bailiffs which could potentially be worse than involuntary PPM installation. This is an alarming acknowledgement and one that reinforces the need for stronger protections against intrusive and intimidating enforcement beyond PPM installation.

We would like to see the prescriptive categories introduced for PPMs repeated for other debt enforcement methods. For example, we would like to see a 'do not use' category for HCEO enforcement which would include enforcement on small debts below a certain threshold, households in receipt of means tested benefits and other additional vulnerabilities, alongside a wider FAN category. If enforcement action is considered potentially more harmful than a mandatory PPM, Ofgem must act quickly to establish equivalent protections.

Requiring a site visit is a positive step to ensure suppliers adequately assess household circumstances. However, these visits could risk being perceived as an intrusive and intimidating element of the debt collection process by individuals. While the guidance holds suppliers responsible for the conduct of third-party contractors, in paragraph 5.10 it only 'encourages' suppliers to ensure third parties are accredited by standards boards. We would like to see accreditation by bodies like the Enforcement Conduct Board as a requirement for any contractor used by suppliers. Ofgem itself should also set out clearly the standards it expects of third parties acting on behalf of suppliers.

Like the Precautionary Principle, the assessment requirements are weakened by starting from the point that PPM installation can proceed in the event of engagement challenges. Paragraph 5.5 allows suppliers to proceed with installation if all engagement efforts have failed and 5.6 only requires 'reasonable effort' to be made to identify vulnerabilities through other means. We think the onus should be on suppliers to prove they can safely proceed and, where they can't, it should not.

Given the potential for poor outcomes for those in the FAN group, particularly where engagement is difficult, we believe this group should be moved into the 'do not install' category. This group currently contains consumers with severe physical and mental health conditions as well as young and elderly individuals for whom medical professionals have said would face serious risks in the case of disconnection. We are not confident that current assessment stipulations would be enough to safeguard these households, which Ofgem already recognise to be experiencing financial and additional vulnerabilities.

As previously stated, we also have serious concerns about the adequacy of current monitoring and enforcement arrangements, with standards of practice being highly inconsistent between suppliers. The consultation acknowledges that suppliers have argued that a site welfare visit in every case will not be possible and are looking to water down this requirement. The scale of energy debt and rapid rise in PPM installations means it will be challenging for Ofgem to adequately monitor supplier practice in this area. Placing FAN households in the 'do not install' category would assist households and support agencies when challenging supplier practices.

3. Can you provide evidence on whether we should retain the ‘over 85s’ in the ‘do not install’ category?

While we cannot provide evidence for retaining ‘over-85s’ in this category, we strongly call on Ofgem to do so and to add ‘over-75s’. As stated above, we are not confident the current wording of the guidance will provide sufficient safeguards for those in the FAN group. Ofgem’s own evidence shows elderly households are most at risk from winter deaths due to cold homes. The financial challenges faced by those being put on an involuntary PPM mean these households are likely to struggle to top-up their meter before any physical or technological challenges they face. Weakness in ability to pay assessments, and the priority given to debt repayments over credit when PPMs are topped up, mean even if these households can top-up their meter, they may still find themselves disconnected from supply.

4. Can you provide evidence on whether we should include children under the age of 5 in the ‘do not install’ category?

Due to the way our client advice data is recorded, we do not have evidence of unique risks of PPM installation for households with children under five. However, we think Ofgem should heed the advice given by NHS clinicians that this group should be included in the ‘do not install’ category due to the risks for young children of living in a cold damp home. While the additional safeguards for households in the ‘further assessment needed’ included in the guidance are welcome, the fact that they all ultimately give suppliers discretion as to whether they install a PPM mean that we are not confident this will be enough to protect these households.

5. Can you provide any further evidence on the potential costs and benefits of our proposals?

We cannot provide further evidence but note the NHS’s £2.5bn cost estimate for the treatment of illnesses directly linked to cold, damp, and dangerous homes. While Ofgem is focussed on the economics of the energy market, these wider costs to society must be central to considering the benefits of improved protections.

7. We are consulting separately on an increased Additional Support Credit allowance to mitigate any impacts on bad debt. Do you have views on how we can ensure suppliers spend this ASC allowance to help PPM consumers stay on supply?

We have reviewed Ofgem’s proposals for an ASC bad debt allowance and largely support this move as it is vital that suppliers willingly provide this credit. Ofgem’s acknowledgement that much of this credit will lead to bad debt reflects the affordability challenges faced by consumers. It is also important that customers benefitting from ASC do not find bad debt pursued by debt collection agencies or HCEO enforcement. Wider provision for debt write-off without increasing bills in a way that increases affordability challenges must be part of future reform for the energy market.

We do not have proposals for ensuring suppliers use the ASC allowance to keep PPM consumers on supply but close monitoring of practices and incentives for suppliers who keep PPM customers on supply and action to address failures among those which do not seem like a sensible approach. We would also like to see requirements that suppliers develop and maintain a proactive strategy to identifying and supporting customers experiencing payment difficulty at an early stage. This could be done through redevelopment and strengthening of the energy rationing guidance. New guidance on information provision would help to inform consumers of the availability of different forms of credit. The effectiveness of these provisions should be monitored closely, with a test and learn approach taken to promoting

information through different communication methods and channels, particularly for consumers with additional vulnerabilities or specific communication needs.

 policy@stepchange.org

 www.stepchange.org

 @stepchange

 0800 138 1111

