

## Consumer Scotland's response to Ofgem's statutory consultation on Involuntary PPM

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### Who we are

Consumer Scotland is the statutory body for consumers in Scotland. Established by the Consumer Scotland Act 2020, it is accountable to the Scottish Parliament. Consumer Scotland's purpose is to improve outcomes for current and future consumers and its strategic objectives are:

- to enhance understanding and awareness of consumer issues by strengthening the evidence base
- to serve the needs and aspirations of current and future consumers by inspiring and influencing the public, private and third sectors
- to enable the active participation of consumers in a fairer economy by improving access to information and support

### Overview

Consumer Scotland welcomes Ofgem's statutory consultation on Involuntary PPM, as part of the wider work to improve protections for prepayment customers, including the Market Compliance Review<sup>1</sup>. We are pleased to see efforts to reflect the code of practice within the license condition and the more robust protection in regulation.

The current system has failed to provide the necessary protection to households facing the involuntary installation of a prepayment meter. We support Ofgem's more prescriptive process that suppliers are required to follow, to ensure much greater compliance with, and enforcement of, the rules and regulations for the installation of PPMs, especially where there is a vulnerability in the household.

The risk of disconnection from energy supply, and the associated harms this can cause, still exists for the 421,000 consumers in Scotland using prepayment meters, as well as 4.1 million consumers across Great Britain<sup>2</sup>.

Consumer Scotland welcomes greater prescription in the regulation of PPMs and for the rules for suppliers to be clear and concise. In the context of the statutory consultation, we have some specific queries and feedback which is outlined below:

- **Under 5s:** Consumer Scotland welcomes the clinical engagement that Ofgem has undertaken on the risk categories. However, we question why the strong evidence

from the NHS for under 5s to be in the 'do not install' (DNI) category has not been upheld<sup>3</sup>. We recognise the risk of socialised costs to future consumers if debt recovery mechanisms such as PPM are closed off to suppliers but believe this is outweighed by the risks related to short- and long-term health outcomes and public health issues for consumers in this category.

- **Over 85s:** There are significant health risks for consumers over 85 because of living in cold and damp homes or avoiding power usage for activities such as cooking. The level of impact on health and mortality for over 85s would likely mean there is a high level of risk for this group.
- **Avoiding 'cliff edges for risks':** There are financially vulnerable consumers who are not reflected in the high/medium risk categories but fall just outside of them. We would like to see more clarity and specific instruction to suppliers to assess for vulnerability amongst consumer groups that aren't currently captured within the more prescriptive risk categories. There is a need to avoid 'cliff edges' for those who are vulnerable and fall just outside of the risk categories. This needs to be explicit in the legislation to make sure suppliers are clear on their obligations.
- **Monitoring enforcement and compliance for those not captured in the risk categories:** Where consumers are not included the specific risk categories, it is likely to be much more difficult to for Ofgem monitor and ensure compliance as there is a higher degree of supplier discretion. We have outlined some examples in our response to question 2.
- **The need for alternative routes for debt recovery for those for whom PPM is not suitable:** There is a need to identify a portfolio of alternative debt recovery pathways in the absence of a PPM. This would prevent too much debt building up for consumers where a PPM is not considered safe or reasonable. These should be designed to meet a range of consumer needs and build on existing work done by consumer organisations<sup>4</sup>.
- **Monitoring, evaluation and review:** As the Code of Practice has not yet been operationalised, there is a need for ongoing monitoring and evaluation of how the code works and its effectiveness in improving outcomes for consumers. We support the code being integrated into the supply licence but would like to see ongoing monitoring, evaluation and review of efficacy to ensure that it is fit for purpose and that it is improving outcomes for consumers.
- **Refinement of language and clarity of expectation:** To avoid different interpretations of the rules by different suppliers, there needs to be very clear definitions of terms and expectations – for example, what constitutes frequent self-disconnection – to make sure suppliers are clear what the expectations are. We would expect Ofgem to

be monitoring the application of these expectations on an ongoing basis, to ensure a fair and consistent process is being applied across suppliers.

## Questions 1- 6

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

Yes, Consumer Scotland broadly agrees with proposals to integrate the code into the supply licence. We see the pragmatic need to make sure that the guidance is translated into the licence conditions in good time, to ensure that it is ready for winter 2023-24. However, it will be important for Ofgem to undertake ongoing monitoring, testing, evaluation and review of the code of practice to ensure that it is working as it should and is delivering improved outcomes for consumers. The input of consumer groups and their evidence should be central to this monitoring process.

We support the proposals that the revised SLC 28 would incorporate the 7 points outlined in 4.5. Ofgem should ensure that the precautionary principle is clearly defined with clarity about how it might be measured. This would ensure that those who are not reflected in the DNI and ‘further assessment needed’ (FAN) categories are protected.

There is a risk for consumers that the absence of alternative debt recovery pathways may create a barrier to affordable payment options, where a PPM isn’t appropriate, safe or practicable. This can also create concerns for consumers that their details may be passed onto debt collectors, in the absence of a PPM, resulting in significant distress for consumers. There is need for UK Government and Ofgem to explore a range of suitable debt recovery pathways for consumers, where a PPM is not appropriate. These should be designed in a way which meets consumer needs and builds on existing work by consumers groups<sup>5</sup>. Citizens Advice (2023) have recently published a report exploring different approaches to tackling energy debt.

We would like to flag a broader concern that, as the code has not been operationalised yet, there has not been the opportunity to evaluate and monitor its efficacy. how the code of practice works. We support the code being integrated into the supply licence but would like to see ongoing monitoring, evaluation and review of efficacy to ensure that it is fit for purpose. To avoid different interpretations of the rules by different suppliers, there needs to be very clear definitions of terms and expectations – for example, what constitutes frequent self-disconnection – to make sure suppliers are very clear on what the expectations are.

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

Consumer Scotland strongly supports the precautionary principle. Some consumers may fall just outside the DNI/FAN categories, but there may still experience a high degree of vulnerability and extra caution may be needed.

We welcome Ofgem’s proposals to ensure vulnerability assessments are case-by-case and underpinned by the precautionary principle. However, we would like more clarity on how those who sit just outside of the categories will be protected and how Ofgem should ensure that the appropriate attention that we would expect suppliers to commit to medium and high risk groups is not offset by a lack of proper consideration being given to the needs of other consumers.

We would encourage Ofgem to provide more clarity and specific instruction to suppliers to assess for vulnerability amongst consumer archetypes that aren’t reflected in the more prescriptive risk categories. There is a need to avoid ‘cliff edges’ for those who are vulnerable and fall just outside of the risk categories. This needs to be explicit in the legislation to make sure suppliers are clear on their obligations.

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

Older people are at greater risk from the impacts of being disconnected from energy supplies, and so, on the balance of risk, Consumer Scotland strongly supports retaining over 85s in the DNI category.

There is a considerable body of evidence to support this position, including the Scottish fuel poverty definition which recognises that households with a member over the age of 75 are likely to be operating an enhanced heating regime<sup>6</sup>, and Age UK (2022)<sup>7</sup> which states that: “Cold homes are particularly dangerous to older people’s health and are a contributing factor to excess winter deaths.”

Public Health Scotland (2022) have recently conducted a rapid assessment of population health impacts from the rising costs of living. As part of the work, they highlight that fuel poverty and cold homes contribute to excess winter mortality. They include people on PPMs who are likely to disconnect from their meter within the higher risk category<sup>8</sup>.

**4. Can you provide evidence on whether we should include children under 5 in the do not install category.**

Consumer Scotland is concerned about the inclusion of under 5s within the FAN category rather than the DNI. In our response to the call for evidence<sup>9</sup>, we recommended that Ofgem should engage with clinical professionals on the assessment of the proposed categories, and we welcome that this work was subsequently undertaken. However, we are concerned that Ofgem is not taking on board the clinical advice from NHS professionals to include the under 5s in the DNI category<sup>10</sup>. The primary rationale for these categories should be clinical risk and not practicality or cost.

Our assessment is that the inclusion of under 5s in the FAN category would take the risk above a tolerable level. Tolerable (or acceptable) risk would represent a degree to which the risk can be tolerated given wider societal benefits (i.e., avoiding socialised costs related to bad debt)<sup>1112</sup>. At this time, we cannot provide risk analysis, but we would suggest that the purpose of clinical engagement is to ascertain this risk and the evidence from academics and clinicians is clear.

It is clear from the academic literature that there are several serious adverse outcomes that can result from inadequate access to heat and power – such as those which could be caused by rationing or self-disconnection.

The British Medical Journal (2022) published evidence that strongly suggests that growing up in poor homes has a direct and severe impact on health. This includes the risks of cold, damp and mouldy homes which mean higher than average rates of respiratory infections, asthma and other forms of ill health and disability, as well as increased mental health issues, impacts on growth and cognitive issues.

Barrett et al. (2022) published a paper in the Lancet which also highlights impacts of cold homes, including:

- Impaired immunity
- Chronic and acute respiratory illness due to damp, mould and increase in dust mites.
- Impacts on infant growth due to energy used to avoid hypothermia.
- Impacts on lung maturation at vulnerable developmental stages which could lead to a lifelong pulmonary deficit.
- Increased risks of asthma

Mohan (2021) also showed that household energy poverty was associated with a 1.41 times higher odds of child respiratory illness and 1.47 times higher odds of a child wheezing under their models. The risk of a young child being rated as very healthy was also lower.

Our Energy Affordability Tracker<sup>13</sup> provides further evidence which would support the inclusion of under 5s in the DNI category. Our analysis used pooled data from the

winter/spring waves to look at the impact on those who identify as having children under the age of 5:

- 37% of households with a child under 5 reported it was difficult to keep up with their energy bills
- 39% of households with a child under 5 had reported cutting back on food to afford their energy bills
- 25.8% of households with a child under 5 reported they were rationing energy use due to financial concerns and 12.9% reported that they couldn't heat their home due to financial concerns

We recognise that for households in the medium risk category, displaying characteristics of vulnerability (in this instance, having a child under 5 in the property) in addition to financial vulnerability, should ensure that involuntary PPM is avoided under the precautionary principle. However, application of the DNI category offers greater certainty to households with a child under 5, by removing any circumstances under which a supplier may proceed to the installation of a PPM on an involuntary basis.

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

Not answered.

**6. We are consulting separately on 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?**

Consumer Scotland has not formally responded to the consultation on introducing an allowance for bad debt associated with Additional Support Credit (ASC) in the price cap<sup>14</sup>, but we are broadly supportive of the allowance where it relates to a material cost which has not already been accounted for. It is important that suppliers are able to continue offering ASC to consumers as and when needed, and are not deterred from doing so based on cost. When used as it is intended, ASC remains an important mechanism through which PPM consumers can maintain supplies when experiencing financial crisis.

As stated in our response to the call for input on debt-related costs<sup>15</sup>, we are supportive of the float and true up approach to ensure costs are reflective of the actual cost to suppliers, and this should be considered when evaluating bad debt costs related to ASC.

Despite this, have concerns about ASC being used to keep financially vulnerable consumers on PPM where it is not safe or reasonably practicable. There is evidence<sup>16</sup> to suggest that

suppliers have not always offered ASC, or that suppliers tell consumers in vulnerable circumstances that this facility has been exhausted. ASC should be used as a tool to maintain supplies in response to crisis, but only where PPM remains an appropriate payment method for the household.

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<sup>1</sup> [Market Compliance Review: Remote mode switching and pre-payment meter warrant installations | Ofgem](#)

<sup>2</sup> Scottish Housing Condition Survey (2019) [Key Findings](#)

<sup>3</sup> Ofgem (2023) [Statutory Consultation – Involuntary PPM](#)

<sup>4</sup> Citizens Advice (2023) [Tackling Energy Debt](#)

<sup>5</sup> Citizens Advice (2023) [Tackling Energy Debt](#)

<sup>6</sup> [Enhanced Heating Consultation: Scottish Government Response \(www.gov.scot\)](#)

<sup>7</sup> [Cold homes costing NHS £1.36 billion | Media | Age UK](#)

<sup>8</sup> Public Health Scotland (2023) [Population health impacts of the rising costs of living in Scotland: a rapid health impact assessment](#)

<sup>9</sup> [Response to Ofgem's call for evidence on prepayment rules and protections | Consumer Scotland](#)

<sup>10</sup> Ofgem (2023) [Statutory Consultation – Involuntary PPM](#)

<sup>11</sup> Fischhoff et al. (1984) [Defining Risk](#)

<sup>12</sup> Vanem (2012) [Ethics and fundamental principles of risk acceptance criteria](#)

<sup>13</sup> [Consumer Spotlight on Energy 2 | Consumer Scotland](#)

<sup>14</sup> [Price cap – Statutory consultation on introducing an allowance for bad debt associated with Additional Support Credit | Ofgem](#)

<sup>15</sup> [Response to Ofgem's Call for Input: debt-related costs allowance in the price cap | Consumer Scotland](#)

<sup>16</sup> [Frontline perspectives: clients' journeys with prepayment meters | Citizens Advice Scotland \(cas.org.uk\)](#)