

Vulnerable customers and codes workgroup

Discussion document

Ofgem has a statutory duty to have regard to the interests of customers who are disabled, chronically sick, of pensionable age, on low incomes or living in rural areas. Ofgem also has to take into account guidance from Government on social and environmental issues.

Suppliers have a range of licence obligations towards vulnerable customers, most of which have to be delivered through codes of practice. There are 7 separate codes, as follows:

- access to customers' premises
- payment of bills and guidance for customers in difficulty
- use of PPM's
- energy efficiency advice
- The Priority Service Register
- services for the blind or deaf
- customer complaints

Suppliers increasingly seek to differentiate themselves through the development of voluntary initiatives. Some of these initiatives cross-over with regulatory obligations, or extend them.

In considering the appropriate regulatory framework in this area going forward it will be necessary for the Working Group to consider a number of high level issues, including:

- What the overall objectives of these obligations are?
- How far these objectives are being met and whether there is evidence of problems that are not addressed by the existing obligations?
- How far the market can be expected to deliver against these objectives?
- What burden the existing obligations pose?
- Whether the existing obligations are adequately targeted on those who really need the protection?

The Annex sets out the principles which have previously been articulated for the Supply Licence Review. This makes it clear that vulnerable customers are likely to need particular protection. Nonetheless, the Working Group will need to consider carefully, in each area, how best this protection is delivered. Evidence will be needed to support the recommendations.

Are Codes of Practice Effective?

For this initial Working Group meeting Ofgem is particularly interested in exploring whether the approach of having codes of practice underpinned by licence is the most effective way of delivering protection for customers. The current requirements for preparing, reviewing and complying with the codes are covered in SLC27. This approach raises a number of issues:

- the general structure is that the licence sets out in detail things which have to be

covered in the code which then has to be approved by Ofgem and adhered to,

- positioning the requirements in terms of “codes of practice” creates the impression of a lighter touch regime, in line with better regulation, but the fact that the licence sets out in such detail what needs to be in the codes that there is a question as to whether they are in any real sense a lighter touch?
- the argument for using a code of practice rather than a direct licence obligation is usually that the former is more flexible and can evolve over time with changing requirements – but this does not appear to apply in practice in this area,
- the requirement under the licence to adhere to the final code may remove any incentive on suppliers to go beyond the statutory minimum in what they include in their code, and
- there could be undue burden for small players/new entrants in developing a code (which then has to be checked by Ofgem) - the option of signing up to standard code would avoid this.

The code regime was originally intended as a way of communicating information to consumers but can be ineffective:

- the number of codes actually requested and sent to customers maybe very small,
- the codes maybe of more value to consumer organisations but not to individuals, and
- some elements of the code obligations have a stronger consumer information focus (e.g.: explaining to customers the benefits and disadvantages of PPMs) that could be better delivered as an explicit licence obligation.

Alternative approaches

- a, For the licence to include direct obligations rather than a requirement for matters to be covered in the code. e.g. there could be a licence condition stating “that a licensee may not disconnect a customer without first attempting to fit a PPM” - rather than a requirement “to have a code which sets out arrangements not to disconnect a customer without first attempting to fit a PPM”.
- b, For the licence to require compliance with a standard designated code (or any other code accepted by the Authority as meeting the same objectives).
- c, For the licence to require a code to be agreed by the Authority – but only stating in broad terms what it should cover given there is now a body of best practice to draw on.

Questions for the workgroup

1. How can the current code regime be simplified and improved?
2. Option of signing up to a standard code – advantages and disadvantages?
3. What type and level of information is needed for customers?
4. Do many customers request copies of codes?
5. Can customer information be better facilitated through energywatch and the supplier?
6. How far do the licence conditions need to set out the detail of what should be in the codes?
7. Are there any areas that would be better dealt with through explicit obligations rather than a code of practice?
8. Are the approval and enforcement arrangements for the codes effective?

Annex – SLR Principles

This appendix sets out the 5 principles of the SLR published by Ofgem in the SLR Way Forward Document, August 2005.

Principle 1

A licence condition or self-regulation (such as an industry wide Code of Practice) is only necessary where there is a clear need for additional protection for the particular circumstances of gas and/or electricity customers (or specific groups of them), over and above that provided by general consumer protection legislation.

Principle 2

Notwithstanding principle 1, given the essential nature of gas and electricity, there is likely to be a continuing need to protect vulnerable customers by licence conditions and/or self-regulation.

Principle 3

Licence conditions that relate to compliance with industry codes and agreements are only likely to be necessary if they do not themselves contain adequate sanctions for suppliers who breach them.

Principle 4

Licence conditions that are considered necessary will be clearly drafted and will provide a flexible framework within which the maturing competitive market can evolve.

Principle 5

Licence conditions should not restrict suppliers from differentiating themselves in the competitive market and be drafted in a way that will allow suppliers to implement any necessary changes at their own rate without having to move at the pace of the slowest. This means that suppliers who are able to comply quickly with the new SLCs may be able to gain a competitive advantage over those that remain subject to the current SLCs.