

Vulnerable customers and codes workgroup

Minutes – 17 October 2005

Attendees

Ofgem – Maxine Frerk, Dave Barnes, Michael Knowles, Nigel Nash, Andrew Wallace, Kirsten Lewis.

Tony Herbert (CAB) William Baker (Centre for Sustainable Energy “CSE”), Chris Wright (Centrica), Ann Neate (EDF Energy), Richard Bates (energywatch), Graham Kirby (E.On), Mark Watson (Energy Retail Association “ERA”), Julie Voce-Pascoe (Health and Safety Executive “HSE”), Paul Tonkinson (npower), Pamela Kelly (Scottish Power), Rachel Chalmers (Scottish and Southern Energy “SSE”).

Apologies

Gretel Jones (Age Concern), Neil Ritchie (National Energy Action “NEA”)

Minutes

1. Ofgem introduced the meeting and the Group’s terms of reference were agreed. It was mentioned that the Group’s final report was due to go to the Steering Group in May, in preparation for Ofgem’s next consultation on the Supply Licence Review (“SLR”) in June.
2. CSE said that in terms of the workplan it wanted to see broad discussion first before moving onto more detailed obligations in the licence conditions. Ofgem replied that the purpose of this first meeting was to discuss the high level issues as set out in the discussion document. The next three meetings would cover the more specific detail in the licence conditions. After that a further meeting would be necessary to consolidate the work of the group and review recommendations. At this stage Ofgem was not expecting to have to schedule meetings for this group for every month up to June, but it would review the situation if additional meetings became necessary.
3. CSE mentioned that there were licence conditions affecting vulnerable consumers which were not covered by this group. Ofgem replied that the licence conditions had to be divided up into appropriate themes, but that there would be some overlaps between groups. Each workgroup would need to flag up issues in its meeting notes and reports to the Steering Group (which would also be published on Ofgem’s website) so that all relevant representatives were kept adequately informed. It was also important for the workgroups to set workplans and have clear agendas so that issues of interest can be clearly identified and commented upon. In addition there was an option for representatives to raise points through the issues register.
4. Ofgem reiterated its statutory duties regarding “vulnerable” consumers, and mentioned that in conducting this review it had to be confident that these consumers would still be protected by regulation or self regulation. This was also reflected in

SLR Principle 2. E.On requested that the statutory duties be circulated. Scottish Power mentioned potential overlaps with the Disability Discrimination Act. Ofgem replied that this was also being considered.

5. CSE raised a question regarding the interpretation of SLC Principle 3. Ofgem responded that this principle applied only to codes between industry participants.
6. ERA observed that a number of voluntary measures had been put in place by suppliers in respect of vulnerable consumers e.g. the disconnection protocol. Ofgem replied that at this stage it was not intended to put current voluntary measures into the licence regime. However, if other problems were identified there could be grounds for inclusion.
7. There was discussion regarding the concept of minimum standards in a code regime. HSE asked for examples of current minimum standards. Ofgem gave the example of Priority Service Register (“PSR”) customers having the right to free gas appliance inspections.
8. CSE stated that some clarity as to minimum standards was needed as at present there was a degree of variance between suppliers’ codes, for example on interpretation of ability to pay and recovery of debt. Centrica noted the benefits for customers if there were incentives for suppliers to go beyond a minimum to differentiate their services for vulnerable people.
9. npower mentioned that there were incentives on suppliers to go beyond minimum licence requirements, because of the level of media interest in vulnerable customers (as highlighted in the Bates case). Furthermore there had been an incentive for the industry to deal with disconnections policy on a voluntary basis, to prevent consideration of an outright ban in the Energy Act.
10. E.On saw merits in minimum standards in terms of transparency, but they wanted to see more flexibility than allowed for under the current code regime. At present a supplier could not readily put more information or more generously worded provisions into a code, without exposing themselves to being in breach of the relevant licence condition.
11. Ofgem put forward the suggestion of a standard code, which could be beneficial, particularly to new entrants. There could still be an option for suppliers to seek approval of a code that went over and above the standard. In addition there could be an option for the licence condition to apply only to the core requirements in the standard code.
12. In respect of new entrants to the market CSE agreed with the energywatch view that industry structure rather than licence obligations acted as the most significant barrier to entry. CSE said that it saw advantages of minimum standards for vulnerable customers, as it would be concerned if some suppliers only wanted to serve the affluent end of the market. energywatch and HSE also saw the benefits in clear minimum standards.

13. npower said that Ofgem would need to decide for whose benefit a standard code was being created for; customers, energywatch/CAB, new suppliers, or for Ofgem itself.
14. energywatch asked for Ofgem's view on the definition of "vulnerable consumers". Ofgem replied that at present the definition was applied more narrowly in some situations (e.g. disconnections during the winter moratorium) than others (e.g. services for PSR customers). This was one issue that the working group needed to explore, but ERA cautioned that time could be wasted on defining "vulnerable consumers" again where work in this area had already taken place. Ofgem said that one option might be to consider appropriate definitions at a broader level in respect of prohibitive licence obligations, and those which required information to be provided.
15. energywatch mentioned that it is currently carrying out research on PSR services; results should be available to the group in mid November.
16. Ofgem asked how many copies of codes are sent out to consumers. E.On said that it was a small number. Scottish Power said that they could find out the number. Centrica said that they print around 10,000 copies a year, but not all of these are sent out [Centrica later confirmed that around 20,000 copies of each code were sent out following customer requests each year].
17. E.On said that there was a question as to what the customer needed to know, e.g. details of passwords were needed by customers, but details on disconnection processes were not. There were also situations where vulnerable customers needed to be aware of their rights in order to be able to claim them. Ofgem mentioned that in terms of advice on payment difficulties this could be more useful if issued as and when needed, rather than being sent once a year.
18. Ofgem raised the question as to whether codes were more useful as a means of communication for consumer bodies, compared to being sent to consumers directly. CAB replied that its advisors found the codes useful as a reference point on what their clients would be entitled to.
19. Ofgem said that it would be useful to receive evidence as to how codes were working as a communication tool in practice. Scottish Power stated that their Customer Department may have some research information available. ERA said that it maybe useful to have people who deal with these issues on a day to day basis to give a presentation to the work group. energywatch mentioned that it could give a presentation on this for comparative purposes.
20. ERA asked whether Ofgem had any further broad views as to the future of the relevant licence conditions. Ofgem replied that there was scope for better regulation and different ways of framing obligations to ensure that they operated more effectively. However, it had not reached any conclusions and was seeking further discussion through the work group.
21. The PSR had initially been pencilled in for discussion at the next meeting however, as energywatch's report on PSR may not be available at that time, this issue was

agreed to be discussed at the December meeting. The November meeting will deal with debt and disconnection obligations.

Action points

- Ofgem will circulate the following as soon as possible:
 - Ofgem's statutory duties;
 - relevant licence condition obligations;
 - current code of practice guidance; and
 - a discussion paper for next meeting.

The following Information to be provided to Ofgem by 9 November for circulation prior to the next meeting.

- All – any information and case studies from front-line staff on the operation of the codes and communication to customers.
- All – any information as to whether the current licence obligations act as an undue barrier to entry, and views as to whether a code regime should fall on all suppliers.
- Suppliers – relevant examples if the current licence obligations restrict innovation in terms of services provided and/or flexibility in drafting.
- ERA - copy of its debt and disconnections policy paper.
- energywatch to provide a copy of its research on PSR (if available)

Date and subject of next meeting

12 noon, 14 November 2005 at Ofgem's offices – Issues related to debt and disconnection (SLCs 35, 36 and Gas 37A)