

Vulnerable Customers Working Group Debt and Disconnection obligations – Discussion Paper

The focus of the next meeting is on the licence conditions relating to debt and disconnection, including the arrangements for pre-payment meters, as set out in licence conditions 35, 36 and gas 37A. The aim of this note is to set out Ofgem's initial thoughts in this area as a basis for discussion. As noted at the last meeting the aim, as in all areas is to address a number of questions:

- 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?

Note: Obligations on debt and disconnection, as in other areas relating to vulnerable customers, are delivered through codes of practice. Ofgem has provided guidance to suppliers to use when preparing their codes. This guidance which includes all the relevant licence conditions, is being circulated separately to working group members.

Overview – Strawman for debate

At a high level the overall objective in this area is to ensure that customers who are having difficulties paying their bills are sympathetically handled. In particular, given the essential nature of gas and electricity services the aim is to ensure, so far as possible that:

- early steps are taken to avoid customers building up debts;
- where a customer is in debt the amount they are required to repay is reasonable;
- customers are not given a pre-payment meter if they would have difficulty in using it;
- no customer is disconnected through an inability to pay.

There are commercial incentives on the companies to avoid debt building up given the high costs associated with pursuing the debt or with writing it off. This is an area where suppliers have improved significantly over recent years. Ofgem and energywatch have produced best practice guidance in this area and carried out a review last year as to how well the suppliers were doing. This highlighted that substantial effort and progress has been made, although this varied between suppliers. For example, some suppliers were further ahead with improvements to billing systems.

Similarly certain issues relating to the build up of debt as a result of billing problems were raised as part of the supercomplaint and have been considered carefully by Ofgem. Ofgem found no widespread failure of industry billing arrangements although it did find that a relatively small number of customers suffered real harm when companies made billing mistakes. At this stage Ofgem is looking to the industry to take these issues forward on a self-regulatory basis although we retain the option of introducing licence obligations if progress is not made. Industry has recently announced the introduction of a voluntary billing code.

However once a debt has built up the supplier will have strong incentives to take all the necessary steps to recover the monies involved. This will be tempered to some extent by

the adverse publicity that can result from insensitive handling of particular cases including, in particular, disconnection of vulnerable customers. The Bates case in 2003, together with the threat of political action to bar disconnection led to the industry putting in place a voluntary safety net to prevent disconnection of vulnerable customers.

The safety net is described in the ERA's document, 'Protecting Vulnerable Customers from Disconnection', which was published in September 2004. The ERA applies the following definition: 'A customer is vulnerable if for reasons of age, health, disability or severe financial insecurity they are unable to safeguard their personal welfare or the personal welfare of other members of the household'.

Ofgem considered carefully the issue relating to disconnection last year and, as explained in its submission to TISC (attached) supports the right of suppliers to disconnect for debt as a last resort while wanting to see the level of disconnections kept to a minimum.

While the voluntary safety net has proved successful to date the real consumer detriment that can arise in this area points to the need for continuing protection through licence. The area of debt and disconnection is not one where we would want to see competitive differentiation – this is an issue of minimum protection that should be available from all suppliers. Keeping protection in the licence ensures that all suppliers are covered not just those in the ERA and provides clarity over what is expected which is consistent with better regulation.

Specific Licence Obligations – Questions for Discussion

C35: Code of Practice on Payment of Bills and Guidance for Dealing with Customers in Difficulty

C35 (2) requires suppliers to include procedures for distinguishing between customers in difficulty and others in default (i.e. between 'can't pay' and 'won't pay'). Is this a realistic requirement?

C35 (2)(a) includes an obligation to provide general information on how customers with payment difficulties might reduce their bills through energy efficiency. Presumably the code of practice itself is not useful in this regard? Is what is needed that suppliers send their energy efficiency code to any customer in difficulty?

C35 (2)(b) covers the requirement to accept payment by Fuel Direct. Is the need here both for suppliers to accept such payments and for them to make this option clear to customers in payment difficulty? Presumably this links in with the other obligations on payment methods being covered by the contracts subgroup? (Note: the scope for greater publicity is currently limited by DWP's attitude to Fuel Direct.)

C35 (2)(c) requires suppliers to detect failures by customers to maintain repayment arrangements. Read with (2) (d), (e) and (f), the original intention behind this condition was that before a PPM is provided, the customer will have entered into, and then failed to comply with, an instalment arrangement for paying off the debt, taking into account their ability to pay. Will this always be the case? Would suppliers not have an incentive to do this anyway?

C35 (2)(d) and (e) requires debt repayment arrangements to take into account the customer's ability to pay. Ofgem's guidance on the Codes of Practice makes explicit that for customers on benefits the rate should not exceed the Fuel Direct rate i.e. £2.85 a week, unless the customer agrees to pay more. This formulation has been cited on a number of occasions by Ofgem as there have been concerns about inconsistent interpretation of the broader obligation by suppliers. Would there be a case for incorporating the more concrete formulation as a formal obligation?

C35 (2)(f) requires the provision of a PPM in preference to disconnection (when read with C35(3)). This seems the most important prior step that should be mandatory before disconnecting a customer. Are there any other steps that should be viewed as essential? Is the caveat of "where safe and practicable" clear enough?

C35 (3) In gas only, there is a requirement not to cut off the supply otherwise than following compliance with paragraph 2. In electricity, this is picked up in C35(3)(a). Is there inconsistency here?

C35 (3)(b) electricity and C35 (4)(b) gas effectively – but not explicitly – requires suppliers to avoid, so far as practicable, disconnecting premises occupied by elderly, disabled or chronically ill customers in winter. This covers similar ground to C37A (gas) and the voluntary safety net. Although the voluntary ERA safety net seems to be working effectively it would seem worth retaining the licence obligation to ensure all suppliers are covered and to provide clarity as to what is expected? (see also 37A below).

C36: Code of Practice on the Use of Prepayment Meters

C36 (2)(a) covers the provision of information about prepayment meters. This includes information on the advantages and disadvantages of PPM charging facilities, help in the ease of faults etc. Is the code of practice itself the most effective way of doing this? Ofgem's guidance on the codes of practice asks suppliers to describe in their codes levels of service in relation to prepayment meter customers. This includes maintaining reasonable access to charging facilities of no more than 1 mile, unless this is considered to be unreasonable in particular circumstances e.g. rural areas. Should the licence itself stipulate these service levels?

C36 (2)(b) and (c) covers the calibration of the prepayment meter to recover any debt and to reflect higher prices. Could (b) be linked in with the requirements in C35 on ability to pay? Is the obligation to recalibrate following repayment of debt or a price rise explicit enough given the concerns about debt build up on token meters which cannot be reset remotely?

C36 (2)(d) deals with arrangements for removing prepayment meters. Does this information need to be provided in the code itself?

C37A(gas) Pensioners not to Have Supply of Gas Cut Off in Winter

This condition is unique to gas. Unlike C35 (3) above it applies to all pensioner households only (rather than premises occupied by a pensioner or someone disabled or chronically sick). It places a stronger obligation than C35 in terms of not disconnecting during the winter months. In effect, it overrides the rights in the Gas Act, which entitle

suppliers to disconnect for non payment. Consideration needs to be given to whether this condition conflicts with the more general provisions in C35.