

Vulnerable customers and codes workgroup

Minutes – 14 November 2005

1. Minutes of previous meeting / matters arising

- 1.1. Following the previous meeting Ofgem had circulated the minutes and other documents from the meeting as agreed. ERA noted its action to circulate its debt and disconnection policy paper, but now considered that the document was not yet ready for circulation.
- 1.2. On matters arising from the last meeting, EDF raised the issue of the relevance of individual case studies, which had also been raised at the steering group. Ofgem responded that in extreme cases (e.g. the Bates case) one example of things going wrong can be one too many. Ofgem considered that whilst in other situations individual case studies were useful to show consumer experience, wider evidence is necessary to consider what constitutes a proportionate response. This had been Ofgem's approach in dealing with the supercomplaint on billing.
- 1.3. Ofgem mentioned that the Duty to Supply and Contracts and Information Workgroup had looked at SLCs 43 (Payment Methods) and 45 (Security Deposits) but considered that these included vulnerable customer issues which were beyond its current remit. The Workgroup would need to fit these licence conditions into its forward workplan.
- 1.4. CSA asked about the ERA billing code. ERA responded that this code had not yet been finalised with Ofgem. Ofgem mentioned that the billing was an issue that energywatch had raised through the issues register, but that it was outside the scope of this workgroup.

2. Ofgem's discussion paper – *Debt and Disconnection Obligations*

- 2.1. Ofgem put forward the high level objectives set out in the discussion paper, which included ensuring that customers who are having difficulties paying their bills are sympathetically handled. Ofgem noted the voluntary steps taken by the industry, such as the ERA safety net, but observed that as gas and electricity are essential services there was likely to be a continuing need for protection for some customers through the licence conditions.
- 2.2. The NEA and CSE considered that there should be a complete ban on disconnections. Ofgem responded that this had already been considered by Parliament during passage of the Energy Bill but it had not been adopted. It was noted that the Trade and Industry's Committee's report on debt and disconnection had recommended a ban be considered if suppliers failed to show that they could act responsibly. However to date the ERA safety net seemed to be working well.

- 2.3 EDF stated that gas and electricity were unique as products that needed to be offered on credit, and, therefore, as a quid pro quo, suppliers needed to be able to threaten disconnection. Ofgem responded that this threat needs to be handled responsibly.
- 2.4 Powergen said that the challenge was to evaluate what happens when a customer gets into debt and what is a fair balance for the recovery of money. Powergen added there should be a move away from the view that PPMs are a bad thing, as they are favoured by many customers. Ofgem acknowledged this point but noted that PPMs are not appropriate for all customers. energywatch added that putting a customer on a PPM with a more expensive tariff could exacerbate the debt problem. Powergen replied that for them the difference in their tariffs was small.
- 2.5 There was a brief discussion on the potential of smart metering to help with debt and disconnection. It was agreed that it was important that the licence conditions did not act as a barrier to smart metering but equally at this stage the licence should reflect the current technology.

3. SLC35(2) – distinguishing between “can’t pays and won’t pays”

- 3.1. EDF argued that suppliers are not in the best position to distinguish between “can’t pays” and “won’t pays”. It added that it would be better to treat all these customers as “can’t pays” and continue to supply them without credit, rather than attempting to distinguish between customers. Powergen stated that after dealing with customers for some time it is sometimes possible for suppliers to distinguish between “can’t pays” and “won’t pays”, and that one possible solution could be to start with a presumption that all customers are “can’t pays” but, once finding that a customer is a “won’t pay”, to withdraw protection.
- 3.2. CSA mentioned that, generally speaking, the people who get into arrears are those people on low income or who have a change in life circumstances, and that these people need help with money management.

4. SLC35(2)(a) – energy efficiency information

- 4.1. Powergen said that in order to persuade customers to take up energy efficiency it was necessary to enter into a dialogue, and flexibility was therefore needed in the approach adopted. EDF mentioned that energy efficiency advice is already covered under SLC25, and agreed that a more qualitative dialogue with the customer was preferable to prescriptive information requirements.
- 4.2. Ofgem stated that at present a supplier could easily comply with this obligation by giving a contact telephone number for advice when sending correspondence relating to debt. Powergen responded that if an obligation was easy to comply with, a question arose as to whether it needed to be a licence requirement.
- 4.3. Age Concern considered that when a customer gets into debt this is a good opportunity for energy efficiency advice to be offered. CSA also considered that the licence condition should contain provisions relating to energy efficiency advice. Suppliers felt that when customers were initially confronted with a debt problem they usually had other pressing problems and were not receptive to a discussion on energy efficiency. However there was general agreement that at some stage in the

debt process there was likely to be an opportunity to raise it and these customers were ones who could benefit considerably from such advice.

5 SLC35(2)(b) – fuel direct

5.1 In response to a question from EDF, Ofgem confirmed that the current maximum fuel direct payment is £2.85 per week. EDF added that fuel direct used to be the industry's most expensive form of collection. It was noted that whilst there had been some improvements to the operation of fuel direct, problems still existed.

5.2 Powergen questioned whether the obligation was needed when suppliers are happy to receive payment at source. Ofgem mentioned a previous case in which a supplier did not want to accept fuel direct. energywatch added that there can be a postcode lottery because of different interpretations of the rules in different areas. EDF considered that this may be an obligation worth keeping as it may be an issue that the market may not deliver on. Ofgem asked for any further evidence that the scheme was not working as it should in order that this could be raised with DWP.

6. SLC35(2)(c) – detect failures by customers to maintain repayment arrangements

6.1 Ofgem asked to what extent the group was happy with offering PPMs as a first resort alternative to disconnection, rather than offering repayment arrangements for debt via the credit meter. CSA said that it would be concerned if there was a dramatic increase in use of PPMs. EDF asked why there is a concern if gas and electricity are treated the same as any other good or service for which payment is required in advance.

6.2. Powergen requested clarification as to the purpose of this licence obligation. Ofgem replied that it was originally intended that there should be a step in the process to allow customers to clear their debt without having a ppm installed. This was sensible because many customers could handle a payment arrangement and would not need a PPM, but it had become clear that for some customers a PPM was the only option. The requirement to detect failures on repayment now did not appear to add significantly to the overall requirements, as suppliers would be expected to offer an instalment arrangement in most cases anyway. EDF stated that it is a normal part of customer service to detect failures to maintain arrangements. EDF also considered that this obligation may encourage suppliers only to fit PPMs at the end of the process.

7. SLC35(2)(d) and (e) – ability to pay

7.1. Ofgem asked the group whether there was a case for incorporating the more concrete formulation (i.e. not exceeding the weekly fuel direct rate for customers on benefit) as a formal obligation.

7.2 EDF regarded the maximum direct payment figure as a civil service interpretation of the ability to pay. Powergen preferred including the £2.85 per week maximum as guidance only so that suppliers could seek to recover a different amount if they made a case to do this.

- 7.3. Powergen also raised the issue of the OFT guidance on debt collection. Ofgem responded that it considered that the OFT guidance, which discourages unreasonably large instalments, would allow for a higher of repayments than was envisaged by the proactive obligation of taking into account ability to pay.

8. SLC35(2)(f) – provision of PPMs in preference to disconnection

- 8.1. Ofgem put forward the view that the caveat “where safe and practicable” was clear enough. EDF and other suppliers believed that this caveat was limited to whether it was safer and practicable from a suppliers’ perspective.
- 8.2. energywatch gave an example of a case where a disabled person had problems topping up a PPM, and needed the assistance of their home help who was not always there. Ofgem stated that this was an example where details of an individual case were useful and that the caveat should cover cases where it would not be practicable for the consumer to use a PPM. EDF mentioned that there was an obligation under SLC37 to move meters free of charge for vulnerable customers.
- 8.3. Powergen considered that in such situations a supplier could be in breach of the Disability Discrimination Act, such a case was unfortunate but there were requirements in other legislation. Age Concern mentioned that the Disability Discrimination Act does not cover all vulnerable customers, only disabled customers. Ofgem said that the Disability Discrimination Act would be discussed in more detail at the next meeting (on Priority Service Register requirements and codes for the blind and deaf).
- 8.4. EDF could not see that there would be cases where the customer could not use a PPM. Even housebound customers would need someone to do their shopping, which could include purchasing credit for their meter. CSA expressed concern if there were a shift in responsibility on this issue from suppliers to social services. It was agreed that the issue had to be put into context, as there were a very small number of customers that could not cope with PPMs and Ofgem’s understanding from discussions with suppliers was that such cases would be sympathetically handled. Ofgem concluded that there may be scope to amend the guidance to explain “where safe and practicable” further to make it clear that it covered the consumer perspective.

9. SLC35(3) Gas & SLC35(3)(a) Electricity – not to disconnect other than following compliance with preceding requirements

- 9.1 EDF said that potentially this obligation was unlawful, as it narrowed the suppliers’ statutory right to disconnect. Ofgem replied that previously suppliers accepted this obligation. In addition Ofgem stated that, previously, Parliament had decided not to introduce a total ban on disconnections, on the basis of safeguards in the licence conditions. An attempt to change the current licence provisions was likely to refocus the attention of politicians on the possibility of a legislative ban.

10. SLC35(4)(a) Gas , SLC35(3)(b) Electricity and SLC37A Gas – not to disconnect in Winter months

- 10.1. Ofgem highlighted the differences in the wording of the gas and electricity licence conditions. EDF mentioned that there was an overlap with the ERA safety net. Ofgem noted that the ERA safety net covered all months and had a wider definition of “vulnerable customers”, whereas the licence obligations, certainly insofar as they dealt with the winter moratorium, only covered those customers of pensionable age.
- 10.2. CSA said that safety net had delivered improvements but there was the question as to whether it should be incorporated formally into the licence condition for example by removing the reference to winter months. ScottishPower replied that there was the threat of an Ofgem review if the safety net was not seen to be working.
- 10.3. Age Concern stated that if additional requirements created by the industry were subsequently put into the licence condition, there was the danger that this would remove the incentive for the industry to go over and above minimum requirements. Age Concern had seen a similar situation with postal services. Age concern also noted that the success of the safety net was reliant on suppliers being able to identify vulnerable customers.
- 10.4. Ofgem stated that it was reasonable to keep the licence obligation as a backstop, and that it had not heard a strong argument for change.

11. SLC36(2)(a) – Provision of information on PPMs

- 11.1. Ofgem put forward the view that codes of practice may not be the most useful way of providing information to customers on how to use their PPMs. Powergen considered that this issue did not need regulation as suppliers would have to provide information to customers on how to use PPMs. Ofgem mentioned that the Trade and Industry Committee had previously asked about the information provided to customers regarding the disadvantages of having to pay more expensive tariffs for the use of PPMs. Ofgem added that there was research showing that most customers did not know that they were paying more with a PPM.
- 11.2. Ofgem asked whether the guidance “maximum of 1 mile to purchase top-ups for PPM unless unreasonable”, should be covered in the licence condition. Powergen replied that flexibility was preferable and that guidance on this was about right.

12. SLC36(2)(b) and (c) – calibration of PPMs to recover debt

- 12.1. Ofgem mentioned that there was concern that if recalibration was not done in a timely way then this could lead to the build up of debt, particularly with recent price increases. The issue was around token meters which needed manual calibration. There was therefore the question of whether the licence condition needed to be redrafted to take account of disadvantages with old technology?
- 12.2. energywatch said that it had cases where customers had suffered detriment from delays in recalibrating PPMs. EDF said that delays could be caused by technical constraints and by practical access problems – particularly where traditional token

meters are involved . CSA stated that it might be better for suppliers to put a cap on recovery if there were a delay with recalibration. Ofgem replied that one supplier already had a cap in place. Powergen considered that this licence obligation was written at a time that prices were falling, which has not been the situation of late.

- 12.3 Ofgem said that more information would be useful on this issue to establish whether there are more than just isolated problems with recalibration.

13. SLC36(2)(d) – removing PPMs

- 13.1. Powergen considered that the purpose of this obligation was to force consistency on suppliers, but regulation is not necessary as this would be done as part of normal customer service. EDF said that in most cases, it was not its policy to remove PPM's once these had been installed to recover debt.

14. Comparisons with other regulators and general structure of codes

- 14.1 Ofgem mentioned that it had started making comparisons with the code regimes of other regulators, to consider any examples of good practice. Ofwat's licence conditions require a high level of management of codes, including 3 year reviews and annual formal meetings between suppliers and Water Voice. In comparison, Ofcom's general conditions of entitlement include more minimal requirements including compliance with guidelines and templates for approval. Ofgem said that it would be providing a more detailed report on the comparisons in a future meeting.
- 14.2 Ofgem said that it was considering the option of an Ofgem agreed standard code covering the key requirements. Suppliers could incorporate this into their codes, but they would still have the option (or incentive) to include additional features beyond the minimum and which would then fall outside the licence regime.

15. Action points

- Any further evidence that the fuel direct scheme is not working.
- Any further information on problems caused by delay in recalibrating PPMs.
- energywatch to provide a copy of its research on PSR when available.

16. Date and subject of next meeting

- 16.1 12 December 2005 – Issues related to Priority Service Register and provision of services for persons who are deaf and blind (SLCs 37 and 38).

LIST OF ATTENDEES

Gretel Jones	Age Concern
William Baker	Centre for Sustainable Energy
Tony Herbert	Citizens Advice
Chris Wright	Centrica
Graham Kirby	e.on
Roger Barnard	EDF Energy
Ann Neate	EDF Energy
Richard Bates	energywatch
Helen Evans	energywatch
Mark Watson	ERA
Julie Voce-Pascoe	HSE
James O'Connell	HSE
Neil Ritchie	NEA
Paul Tonkinson	npower
Nigel Nash	Ofgem
Andrew Wallace	Ofgem
Michael Knowles	Ofgem
Dave Barnes	Ofgem
Maxine Frerk	Ofgem
Kirsten Lewis	Ofgem
Pamela Kelly	Scottish Power
John Sykes	SSE
Gareth Evans	Total Gas & Power Limited