

Report to Steering Group - Duty to Supply (obligation to offer terms, methods of payment, security deposits and publication of prices)

This report to the Steering Group is based on an impact assessment (IA) of the obligations in the electricity and gas supply licences that support the duty to supply domestic customers. This report has been developed by the Duty to Supply, Contracts and Information workgroup. The IA is based on the Ofgem template for such assessments and focuses on the obligations set out in the following standard licence conditions:

SLC 32. Duty to supply domestic customers

SLC 43. Contractual Terms – Methods of Payment

SLC 45. Security deposits

1. Objectives

The purpose of the objectives section is to provide a summary of general statutory duties, or the relevant duties and other legislation.

Ofgem has a principal objective to protect the interests of customers, wherever appropriate by promoting effective competition.

In carrying out its functions Ofgem must have regard to the interests of individuals who are disabled or chronically sick, of pensionable age, on low incomes and those who are residing in rural areas.

The Energy Act 2004 introduced a statutory requirement on Ofgem to pay regard to the principles of better regulation when carrying out its functions.

EU Directives (IMED and IMGD) place requirements on member states in relation to duty to supply. In particular:

- (electricity only) To ensure that all household customers, and, where appropriate, small enterprises enjoy universal service, that is the right to be supplied with electricity of a specified quality within their territory at reasonable, easily and clearly comparable and transparent prices.
- (electricity only) To ensure the provision of universal service, Member States may appoint a supplier of last resort.
- Customers are offered a wide choice of payment methods. Any difference in terms and conditions shall reflect the costs to the supplier of the different payment systems.
- Upon implementation of this Directive, Member States must inform the Commission of all measures adopted to fulfil universal service and public service obligations, including consumer protection and environmental protection, and their possible effect on national and international competition, whether or not such measures require a derogation from this Directive.

- They shall inform the Commission subsequently every two years of any changes to such measures, whether or not they require derogation from this Directive.

2. Key issues

This section sets out the key issues and questions that this IA is seeking to answer.

2.1 Duty to offer to enter into domestic supply contracts and provide supply

SLC 32 requires (with specified exceptions set out in SLC 32(2) of the electricity supply licence and SLC 32(2) and (3) of the gas supply licence) suppliers to offer terms to all domestic customers that make a valid request. This standard licence condition also requires a supplier to provide a supply of gas or electricity where the customer accepts the offer of terms. This duty to offer terms and provide supply for customers at domestic premises was included as a licence obligation to mitigate the risk of 'cherry-picking' by suppliers and the concern that therefore certain groups of customers would be excluded from the benefits of the competitive market.

Unless there are exceptional circumstances (for example those set out under SLC 32(2)), all customers should be able to secure offers from suppliers for terms of supply. The key issue for debate is whether an offer of terms will materialise for all domestic customers for example vulnerable customers or those with a poor credit history, whether an offer should be secured from all suppliers and whether the offer needs to be secured through regulation or whether the market will provide in all relevant cases.

A further issue is how the UK would demonstrate compliance with the universal service obligation set out in the IMED if this obligation were to be removed from the electricity supply licence.

2.2 Methods and frequency of payment

SLC 43(1) prevents a supplier from only offering a single payment method; e.g. entering the market on a direct debit tariff only. Suppliers must offer a range of payment methods, including PPM and cash. Suppliers must also offer to accept these payments at defined frequencies. Other than where supply is taken through a prepayment meter, SLC 43(3) requires each customer to be offered the range and frequency of payments set in SLC 44(1) before entering into a contract.

The requirements of SLC 43(1) to offer a range of payment methods (prepayment, cash and cheque) at a specified range of frequencies (paying twice-monthly or fortnightly or more regularly, such sums as agreed, paying monthly a predetermined sum, and paying quarterly in arrears) were established at the start of competition in the domestic market. Notably there is no requirement to offer DD payments.

SLC 35 (Code of Practice on Payment of Bills and Guidance for Dealing with Customers in Difficulty) sets out a further payment method specifically targeted at customers who are having difficulty in paying for their energy bills. Under SLC 35(2)(b) suppliers are required to accept payment which is deducted at source from social security benefits.

The key issue to resolve here is whether there continues to be a requirement for all suppliers to offer a specific range of methods and frequencies of payments to domestic customers in the standard conditions of the supply licences or whether customer needs would be best served by the market. Of particular note will be concerns that these obligations were targeted at vulnerable customers to assist with their budgeting for energy payments and whether the specific requirements are still correct. If any changes to obligations are suggested then further consideration would be needed on how the UK would continue to demonstrate compliance with the IMED and IMGD requirements to offer a wide choice of payment methods.

Customers' reasonable demands for payment types and frequency should be met. Suppliers should be able to differentiate between payment types to reflect the differing costs to serve. The extent to which suppliers offer differential prices for payment types should be a matter for suppliers to determine in conjunction with the signals from customers in the market. The key issue for debate is whether the market can be relied upon to provide the range of payment methods required by all and in particular vulnerable customers or whether this can only be secured through regulation.

Note: if the obligation to offer terms were to be removed then a requirement to offer a variety of methods of payment would appear to be incongruous.

2.3 General Publication of Principal Terms

SLC 43(7) sets out requirements on suppliers to publish the principal terms of domestic contracts in a manner that the supplier considers will secure adequate publicity for them. "Principal terms" is defined in SLC 1 (Definitions and Interpretation) as: the charges for supply, any requirement to pay using a prepayment meter, any requirement for a security deposit, duration of the contract and the rights to terminate the contract. The intention of the obligation is to ensure that customers have visibility of the charges and other terms being offered that may impact on their material choice of supplier and may not have been in the interests of suppliers to promote.

The obligation to publish terms is likely to distort supplier behaviour. If this is the case we should seek to identify whether this distortion acts to the benefit of customers by facilitating participation in the competitive market or whether this obligation leads to customer detriment by being unduly restrictive.

Customers should have access to the terms of supply from a variety of suppliers so that they can make informed choices. This IA is seeking to identify whether the provision of this information will be achieved through market forces or whether this can only be achieved through regulation. It will also need to be assessed whether other obligations, such as that to provide copies of contracts to customers on request (SLC 43(5)(a)) would be sufficient and what form of information (e.g. a summary of principal terms or a copy of a contract) best meets the needs of customers.

The supplier has further obligations to provide Ofgem, energywatch and anyone who requests them with a copy of the terms and conditions of the contract. These terms are not approved by Ofgem. The requirement for Ofgem and energywatch to be able to secure information on contract terms and conditions would also be met where the right of any persons to request this information under SLC 43(5)(a) is retained.

2.4 Security Deposits

SLC 45 sets out a framework for security deposits to be required from domestic customers in certain circumstances. Security deposits are not to be required where the customer is prepared to take a supply through a prepayment meter or it is otherwise unreasonable in all circumstances to do so (SLC 45(1)).

SLC 45 also sets out that individual security deposits should not be more than one and a half times the value of an average quarter's consumption or more than is reasonable (SLC 45(2)), limits the length of time that a deposit can be held (SLC 45(5) and (6)) and requires it to be paid back with interest once certain conditions have been met (SLC 45 (4)).

The key issues in relation to security deposits are whether there are particular features of the credit arrangements in the gas and electricity markets that require domestic customers to be protected from unduly onerous security deposit terms (including charges) and whether there is other customer protection legislation that is applicable in this area.

3. Options

This section set out the options that have been covered in this IA. The Duty to Supply, Contacts and Information workgroup proposed that this draft IA concentrate on 3 main options. These are set out below. These options are not exhaustive but are intended to facilitate debate. In particular, there may be further permutations to Option 3.

3.1 Option 1 - Do nothing

Retain existing arrangements, as either removing them will have high transactional costs without discernible benefits, or the obligations are considered to be required to ensure that customers receive offers of supply, are offered a wide range of methods of payments at the appropriate frequency and that measures are in place to ensure that the terms for security payments are not unduly onerous and that the principal terms of contracts are published.

3.2 Option 2 - Remove

Remove the licence obligation on all suppliers and rely on markets, self regulation of other customer protection legislation to deliver offers of supply to customers, provide customers with sight of relevant terms and conditions, including a variety of methods of payment with appropriate frequency and terms for security payments that are not unduly onerous.

3.3 Option 3 - Redraft

There are several potential options for redrafting the existing provisions. For example:

- Provisions remain for large suppliers only,
- Ofgem appoints a provider of last resort, or
- Obligations pertain to vulnerable customers only.

For the purpose of this discussion the redraft to the obligations being considered will be: To retain the obligation to offer terms but to remove the obligation on suppliers to offer the set range of payment methods and frequency of payments, the restrictions of the use of security deposits and to also remove the obligation on suppliers to publish their principal terms.

4. Competition

This section seeks to provide an assessment of the impact of each of the above options on competition in the domestic gas and electricity supply markets. It firstly looks at the current performance of the market and the counterfactual (Option 1) to set out what we could expect to occur in the future if these obligations were retained. It then reviews the potential implications of options 2 and 3.

In particular, the questions that this section is seeking to address are:

- What impact would retaining, redrafting or removing the duty to supply obligations have on competition in the domestic energy market?
- What should domestic customers expect from a functioning domestic supply market?
- To what extent will competition deliver:
 - offers of supply,
 - methods and frequency of payment that meet customer needs
 - security deposits that are not unduly onerous
 - transparency and access to information on principal terms

4.1 Duty to offer to enter into domestic supply contracts and provide supply

4.1.1 Current state of the market

All domestic suppliers are currently required to offer terms and enter into an agreement for supply with specified exceptions.

Tariff levels are not regulated but some of the contract terms are required or restricted by the licence or other customer protection legislation. Suppliers could price themselves out of certain market sectors and avoid the obligation to offer terms in practice. This has only occurred in very limited instances in the current market.

Ofgem's domestic competition market reviews have indicated that switching rates have been marginally lower for rural customers and customers with PPM meters; but these could be explained through other factors than a deliberate attempt by suppliers to avoid certain customer groups. Other suppliers have deliberately targeted specific offerings at vulnerable customer groups.

Requests for new connections are being met and suppliers appear to be keen to enter into arrangements with developers to become the supplier at new developments.

There is a high rate of switching in the domestic market. Domestic customers are being offered new contract terms from a wide range of sources.

In the non-domestic market there is no obligation to offer terms for supply. Ofgem consider that there is continued evidence of competition (increasing levels of customer satisfaction, product innovation, low market concentration levels). We recognise that the non-domestic market is highly segmented and that this general impression may not reflect reality for particular customer groups. We also recognise that wholesale market developments are having an impact upon the non-domestic retail market and particularly the number, duration and variety of offers customers receive from their tender processes. As a result, Ofgem has initiated a process to assist specific customer groups to engage more readily with the retail market. If this process is not successful we will consider conducting a formal market review.

4.1.2 Counterfactual (Option 1 and Option 3)

If the current set of obligations were to be retained then we would expect the existing position to largely remain.

There is no evidence to suggest that suppliers are unwilling to offer terms to domestic customers. However, suppliers may seek to increasingly segment the market and offer selective tariffs to those groups which reflect the cost to serve.

Suppliers are likely to continue to market more aggressively to certain groups of customers.

Competition and innovation may be weaker than otherwise possible in some parts of the market if the obligation to offer terms deters new/niche suppliers.

4.1.3 Removed (Option 2)

If the current obligations to offer to enter into domestic supply contracts and provide supply were removed, in general, it would be expected that suppliers would seek to provide offers of terms to customers and to fulfil those offers where they are accepted.

However, suppliers could refuse to offer terms to certain (types of) customers and some customers may find it more difficult to find an offer of supply. Potentially this may increase the transactional costs for some customers and restrict the availability of different contract terms.

In particular there may be concerns about offers of terms for vulnerable customers who may have a higher cost to serve and for customers with a poor credit history.

Some new / niche suppliers may enter the market if they do not have an obligation to offer terms to all customers. This may increase the benefits of competition in terms of price and service for some domestic customers.

As provisions for deemed contracts are likely to remain, there is no risk that customers will not have a supplier on change of tenancy or where a fixed term contract expires. The deemed contract provisions mean that customers who move into premises or whose domestic supply contracts are terminated will have a supply under regulated deemed contract terms.

Customers with new connections will not be guaranteed offers of terms from all domestic suppliers. However, it is currently Ofgem's view that suppliers are active in seeking arrangements with property developers to establish themselves as the supplier in these instances.

4.2 Methods and frequency of payments

4.2.1 Current state of the market

All domestic customers are offered a wide range and frequency of payment including, but not exclusively, those stipulated in the licence of credit, prepayment, twice monthly and fortnightly cash and paying monthly a predetermined sum.

Suppliers offer payment methods other than those required by licence such as direct debit and flat rate tariffs not linked to consumption.

Evidence on customer take up of payment types and frequency from Ofgem Social Action Plan monitoring is shown below:

GAS	2002	2003	2004	July - Sept 2005	ELECTRICITY	2002	2003	2004	July - Sept 2005
Monthly DD	42%	43.7%	46.5%	47.3%	Monthly DD	36.5%	39%	42.4%	43.6%
PPM	9.7%	10.1%	10.2%	10.4%	PPM	15.1%	15.2%	14.3%	14.1%
Otly cash/cheque	40.1%	38.6%	36%	35.4%	Otly cash/cheque	42%	39.6%	37.6%	37%
Weekly, Fortnightly of Flexible payment Scheme	4%	3.7%	3.6%	3.4%	Weekly, Fortnightly of Flexible payment Scheme	2.7%	2.7%	2.4	2.2%
Other*	4.2%	3.8%	3.6%	3.5%	Other*	3.7%	3.5%	3.3%	3.1%

*Fuel Direct, Monthly payment scheme, standing orders and quarterly variable direct debits

Information on Fuel Direct take up from Ofgem Social Action Plan monitoring is shown below:

GAS	2002	2003	2004	July - Sept 2005	ELECTRICITY	2002	2003	2004	July - Sept 2005
Customers on Fuel Direct	30,006	27,517	26,354	27,927	Customers on Fuel Direct	21,137	20,678	19,606	20,599

NB: Customers who are on the Fuel Direct scheme for both gas and electricity payments will be recorded in both the electricity and gas figures in the above table.

There are differences between suppliers in promoting and pricing for different payment types. Some suppliers are more active in promoting certain payment types. Suppliers (not all) set domestic tariffs according to payment type

Some potential new entrants may be deterred from entering the market as they do not want to offer the full range of payment types and frequency. Under the current debt and disconnection rules those suppliers that did not want to offer payment through a prepayment meter may be limited in their ability to disconnect domestic customers, where the domestic customer was prepared to accept this payment type.

4.2.2 Counterfactual (Option 1)

Expect competitive market to continue largely as described above.

Some potential new suppliers may be deterred from entering the domestic market as niche players.

Suppliers could increasingly vary the pricing differentials between payment types and frequency to reduce exposure to these market segments but there is no evidence to support this at the moment.

4.2.3 Removed (Option 2 and Option 3)

Even if suppliers would not have to offer all the payment types and frequencies currently required by the licence it would be expected that they will seek to respond to customer demands.

There is potential for some customer groups, e.g. vulnerable and low income customers not to be offered payment types and frequencies that they require to help them manage their fuel bills. There may also be a reduction in choice of terms offered to these customers.

New suppliers may seek to enter the market offering niche products, e.g. DD tariffs. NB: These suppliers would need to offer prepayment meters where safe and practicable to customers in debt in advance of disconnection in accordance with SLC35 (if this condition is retained), or alternatively not disconnect customers.

4.3 Publication of prices

4.3.1 Current state of the market

Suppliers are required to publish prices. They do this in a manner that they see fit to secure adequate publicity for example by placing this information on their websites, and providing pricing literature to customers upon request, at point of sale and also after sale. Information is also published by price comparison brokers.

4.3.2 Counterfactual (Option 1)

Expect current position to remain.

4.3.3 Removed (Option 2)

In general, customers would be expected to have access to the principal terms of supply offered by a range of suppliers. This may need to be obtained directly from suppliers which would increase customers' transactional costs in switching supplier.

However, it is reasonable to expect that price comparison services would continue to exist where customers express a demand for them.

Where the requirement to offer terms has been removed then some suppliers may refuse to inform a customer of their principal terms. This is only likely if the supplier did not want to supply the customer.

4.3.4 Redraft (Option 3)

As above, in general customers would be expected to have access to the principal terms of supply offered by a range of suppliers. This may need to be obtained directly from a range of suppliers. However, it is reasonable to expect that price comparison services would continue to exist where customers express a demand for them.

Where the requirement to offer terms has been retained then suppliers would be required to inform customers of their terms on request.

4.4 Security deposits

4.4.1 Current state of the market

Suppliers generally cannot request security deposits from customers where the customer is prepared to accept supply through a prepayment meter or where it is unreasonable to do so.

Between July and September 2005 1,218 security deposits were being held by suppliers in the electricity market. Of these 436 had been held for more than 12 months and the average value of the deposit was £112.47p.

Between July and September 2005 4,662 security deposits were being held by suppliers in the gas market. Of these 1,701 had been held for more than 12 months and the average value of the deposit was £147.76p.

Suppliers can demand security deposits in a number of different circumstances where a contract is being entered into, for example on change of tenancy, where a customer has requested new terms and conditions and where the customer has breached the terms of their contract and been subject to disconnection.

OFFER determined disputes over security deposits under their statutory powers. Restriction on the value of the deposit was not initially a feature of the licences and OFFER employed a policy along the lines of the values later enshrined in the licence. Ofgem has not been called on to use this power to determine disputes.

Security deposits are a feature of other markets where customers are given credit.

4.4.2 Counterfactual (Option 1)

The number of security deposits held is currently low. This is in response to customer dislike of paying deposits, because some customers may prefer a prepayment meter, because those customers who are asked to pay them may be those who are least able to afford them and because there may be political pressure to keep them to a minimum.

It is possible that attitudes to security deposits could change and increasing numbers of these be held by suppliers. Security deposits have been held in higher volumes in the past.

Some suppliers could potentially offer cheaper terms where security deposits are held.

Technology may impact on the number of security deposits held. For example, some smart meters are capable of remote disconnection.

4.4.3 Removed (Option 2 and Option 3)

There is a significant overlap between SLC 45, Common Law and arguably the UTCCRs on the amount that can be required as a security deposit. Neither the common law nor the UTCCRs prescribe a limit on the amount that suppliers may charge consumers for a deposit. However, under the common law and arguably under the UTCCRs, the deposit is required to be a reasonable estimate of the loss which a supplier is likely to suffer in consequence of a default. It is therefore expected that removing this provision may not directly lead to an increase in the number of security deposits held or their value and therefore not impact on customers' ability to participate in the competitive market.

The UTCC however does not set requirements for the paying of interest on security deposits and its repayment which would be left to the market. Actual or perceived problems with the repayment of security deposits may deter some customers from trying to switch if a security deposit is demanded.

Determination of disputes under the UTCC may be more cumbersome and indirect than the process for individual determination by Ofgem that is currently allowed for by SLC 45.

5. Impacts, costs and benefits

5.1 Environment

No impact identified

5.2 Physical security of supply

No impact identified

5.3 Health and safety issues

No impact identified

5.4 Distributional effects

This is likely to be a key area of debate. The purpose of regulation in this area is arguably to dampen some of the potential distributional impacts. Distributional impacts are not necessarily an unwelcome feature of the market. Where distributional impacts are evident we will need to identify to what extent they are consistent with Ofgem's objectives.

5.4.1 Option 1 – Retain Duty to Supply obligations

Retaining the existing obligations will dampen distributional impacts through regulation and set minimum requirements and expectations for domestic customers.

This may restrict competition and innovation and benefits for some customers, for example by deterring new entrants and supplier innovation.

5.4.2 Option 2 – Remove Duty to Supply obligations

If it cannot be guaranteed that all customers will receive an offer of terms for supply this is likely to be an issue for new connections. It may also prevent some customer groups accessing a range of offers for all other domestic customers.

Monopoly rents are unlikely depending on barriers to entry for other suppliers and an effective change of supplier process.

The highest impact may fall on customers who are most costly to serve possibly impacting greatest on vulnerable customers. Differential pricing is allowed at the moment but has not been a significant feature of the domestic market.

Allows potential new / niche suppliers to enter market and offer services to particular groups of customers.

5.4.3 Option 3 – Retain obligation to offer terms but remove obligations on methods of payment, security deposits and publishing prices

All customers are required to be offered terms. However, these terms are not restricted in terms of methods and frequency of payment, security deposits and publication of prices. Apart from the first paragraph, the points above associated with Option 2 are relevant.

5.5 Small businesses

No impact – there is no duty to supply non-domestic premises. Deemed contracts are again relevant here as suppliers cannot cease to supply a site unless there has been a change of supplier or a disconnection.

Similarly there are no provisions in relation to methods and frequency of payments and security deposits. This will be a matter of contract.

There is no obligation on non-domestic suppliers to publish prices.

5.6 Risks and unintended consequences

The main risks identified in this draft IA as a consequence of removing the current duty to supply obligations are that some customers may not secure offers of terms of supply and may not be offered the payment methods and frequencies of payment that they require to assist their payment of energy charges. This may be a particular issue for vulnerable customers, low income customers, customers in rural areas and those customers with non-standard supply arrangements, such as those on IGTs. In

addition, some customers may experience a lack of transparency and ability to compare supplier prices and other terms.

6. Costs and benefits

6.1 Costs

It is not clear that there are significant costs for large suppliers in maintaining the obligation to supply. This is likely to be more of an issue for small suppliers. Where new entrants are deterred there will be costs incurred by some customers who are not able to take innovative products offered by potential new suppliers.

Without obligation to offer terms there may be costs to individual customers who can not secure offers of supply, for example new connections and some vulnerable customer groups.

Some methods and frequencies of payment will be more expensive than others to deliver. Differential charges are allowed for cases and classes of cases of customer. However, maintaining the full range of payment options may have prohibitive costs for small suppliers who have limited numbers of customers on each and do not benefit from economies of scale.

Not requiring suppliers to publish prices is likely to have a limited reduction in the costs incurred by suppliers but will reduce regulatory risk. It may have impacts on customers whose transactional costs in identifying the most suitable terms and conditions increase.

6.2 Benefits

Removing duty to supply obligations would enable some suppliers to offer tailored / niche products

New entrants / threat of new entrants and increased competitive pressure

Reductions in administrative burden can be passed through to customers in terms of lower prices.

7. Conclusion

7.1. Obligation to offer terms to domestic customers

Having considered the issues raised in this IA, the broad consensus of the group is that it is sensible to retain an obligation to make an offer of terms to a domestic customer as this will ensure that all customers (including vulnerable customers and new connections) will be offered terms. It also appears sensible to require suppliers to give supply on those terms if accepted by the customer.

It is intended that this obligation be significantly streamlined by the removal or revision to other related obligations which detail the terms that suppliers must offer.

The group also notes that the removal of the obligation to offer terms is likely to conflict with the Universal Service Obligation requirement (in the electricity market only) under the Internal Markets Electricity Directive 2003/54/EC (IMED) Article 3(3), unless replaced by alternative arrangements.

BGT have asked that this note record that they did not agree with the view of the group. BGT maintained the view that there was no longer any justification to place suppliers under such an obligation. All customers were able to access a supply and the recent evidence from both Ofgem and energywatch indicated that the competitive market was working well.

SSE also considers that, as recent evidence shows that competition is effective and that all customers are able to access a supply, the continuing need for this obligation is questionable.

7.2 Methods and frequency of payments

Having considered the issues raised in this IA the group agrees that there is not a requirement for licence obligations to offer a prescribed range and frequency of payments to all domestic customers.

For the generality of domestic customers suppliers will seek to meet customer requirements for payment methods and frequencies. As noted above, suppliers will be required to offer terms to domestic customers. It is expected that customers will be offered either credit or prepayment arrangements. The group notes that the IMED and Internal Markets Gas Directive 2005/55/EC (IMGD) (Annex A) both require that customers are offered a wide choice of payment methods. Ofgem will further pursue its discussions with the DTI on this issue and the group will need to consider the outcome of these deliberations.

The impact on vulnerable and low income customers is being considered further in the VCCOP. The VCCOP workgroup is seeking to identify whether there are specific requirements to provide payment methods that meet the needs of vulnerable customers. A further decision will need to be taken on whether such obligations are limited to vulnerable customers, or could be couched more generally as due to their nature (e.g. Fuel Direct and weekly/fortnightly cash payments) customers for this service would tend to be vulnerable and self selecting.

7.4 General publication of principal terms (SLC43 (6) and (7))

Having considered the issues raised in this IA the group considers that the obligation under SLC 43(6) and (7) to publish principal terms should be removed. Customers should have the information that they require to allow them to make informed decisions but suppliers would be expected to market as they see fit and if customers want price comparison services then suppliers would be free to submit their prices for consideration.

In terms of the information available to customers, the licence (SLC 44(1)) requires that suppliers make reasonable efforts to provide customers with the principal terms of their domestic supply contracts in advance of the customer entering into the contract. The obligation under SLC 43(5)(a) to provide copies of contracts on request will also be retained.

7.6 Security deposits (SLC 45)

The group notes the significant overlap between the SLC 45, Common Law and arguably the UTCCRs on the amount that can be required as a security deposit. Neither the common law nor the UTCCRs prescribe a limit on the amount that suppliers may charge consumers for a deposit. However, under the common law and arguably under the UTCCRs, the deposit is required to be a reasonable estimate of the loss which a supplier is likely to suffer in consequence of a default. The licence restriction on the level of security deposits may therefore be removed.

Other restrictions on security deposits, set out in SLC45, which limit the length of time that a security deposit can be held and require it to be paid back with interest once certain conditions have been met should be removed from the licence. It is the group's view that the gas and electricity industry is not sufficiently different from other markets where credit is offered in this instance.

The group agrees that it would be in customers' interests for them to have access to an effective dispute resolution mechanism. It is considered that Ofgem should retain its role in resolving disputes which arise under this condition for the time being. A dispute could be reviewed under the common law or the UTCCRs, but a view was taken by the group that Ofgem should retain the ability to resolve disputes as this was likely to be concluded more quickly. Other alternative dispute resolution mechanisms may develop that could replace Ofgem's role in the future. However, if as stated above, the intention is to significantly lessen the scope of SLC45 then this will reduce the basis upon which Ofgem could be required to resolve a dispute. It is therefore agreed that the provisions in the licence should set out that, where the supplier requires a security deposit to be given, any dispute with the consumer over the reasonableness of making a demand for a security deposit and the value of the demand should be determinable by Ofgem.

Finally, the group agrees that a security deposit cannot normally be required where the customer is prepared to be supplied through a prepayment meter (and it is reasonably practicable in all the circumstances to provide such a meter) or where it is otherwise unreasonable to do so. This would allow customers who are not able to afford the security deposit demanded the opportunity, in normal circumstances, to access the supply market through a prepayment meter.

Note: a proposal by the group to retain an SLC does not prevent that condition from being considered for different (and better) drafting treatment under the SLR process.