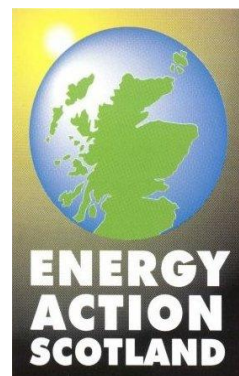


# Response to Ofgem: Proposed Amendments to Gas and Electricity Supply Licence Conditions in Relation to the Disconnection of Vulnerable Customers



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## Introduction

Energy Action Scotland (EAS) is the Scottish charity with the remit of ending fuel poverty. EAS has been working with this remit since its inception in 1983 and has campaigned on the issue of fuel poverty and delivered many practical and research projects to tackle the problems of cold, damp homes. EAS works with both the Scottish and the UK Governments on energy efficiency programme design and implementation.

## Fuel Poverty in Scotland

The Scottish Government is required by the Housing (Scotland) Act 2001 to end fuel poverty, as far as is practicable, by 2016 and plans to do this are set out in the Scottish Fuel Poverty Statement. The number of Scottish households living in fuel poverty dropped from 756,000 (35.6%) in 1996 to 293,000 (13.4%) in 2002. Half the reduction was due to increases in household income, 35% to reduced fuel prices and 15% to improve energy efficiency of housing<sup>1</sup>. The most recent figures<sup>2</sup> from the Scottish House Condition Survey in Key Findings Report show that there were 586,000 households living in fuel poverty in Scotland in 2008, representing 27% of the total.

According to figures produced by the Scottish Government<sup>3</sup> early in 2008, for every 1% rise in fuel prices an estimated 8,000 more households would go into fuel poverty. Based on these figures EAS estimates that there are currently 850,000 households, around one in three, in fuel poverty in Scotland. This significant increase in fuel poverty is widely accepted to be due to the dramatic increases in domestic fuel prices and EAS is very concerned about the impact on vulnerable customers.

## Response

EAS supports Ofgem's proposal to ensure protection from disconnection for vulnerable customers. EAS also welcomes Ofgem's intention to clarify suppliers' obligations under their licences with regard to disconnection. However, there are a number of areas within Ofgem's proposed amendments that themselves require further clarification, review and revision.

### 1. Reasonable Steps to Identify the Status of Customers Before Disconnecting:

With reference to the wording of existing licence conditions 27.10 and 27.11, EAS shares the concerns of others i.e. the phrasing in the licence condition 27.10 (*The licensee must not Disconnect, in Winter, a Domestic Premises at which the Domestic Customer has not paid Charges for the Supply of Gas [Electricity] if it knows or has reason to believe that the customer is of Pensionable Age and lives alone or lives only with persons who are of Pensionable Age or under the age of 18*) should be substituted in 27.11 by the requirement that: *The Licensee must take all reasonable steps to avoid disconnecting.....* It may be that, as Ofgem asserts, the Licence Conditions are given the same force by the revised wording of SLC 27.11 (A) which reiterates the 'all reasonable steps' requirement but SLC 27.10 is an absolute i.e. where the household satisfies the criterion there can be no disconnection. SLC 27.11 appears to offer an

<sup>1</sup> Fuel Poverty in Scotland: Further Analysis of the Scottish Housing Condition survey 2002

<sup>2</sup> Revised Scottish House Condition Scotland Key Findings Report 2008

<sup>3</sup> Estimate of Fuel Poverty Households in Scotland: Scottish House Condition Survey March 2008

element of discretion to the supplier. EAS is concerned that Ofgem considers it sufficient that the level of protection is assumed to be the same, however this is not what is implied. Given that Ofgem has already identified 'areas of weakness and inconsistencies between suppliers that need to be addressed', EAS is particularly concerned that the form of words used in 27.10 is not replicated in 27.11. This would remove any ambiguity and ensure genuine consistency in the treatment of all vulnerable energy consumers.

Ofgem believes that suppliers should be proactive in seeking out information to determine the status of customers because it is their 'policy intention' that suppliers do so. EAS does not consider it sufficient that issues of compliance by suppliers should be 'implicit'. EAS is surprised at the apparent lack of concern that the approach Ofgem expects suppliers to take is 'generally' that taken through the ERA Safety Net, not least because not all suppliers are signatory to the Safety Net. In addition, there are apparent discrepancies in terms of how the licence conditions and the ERA Safety Net define vulnerability. EAS believes that Ofgem should seek to ensure concurrence between these licence conditions and the Safety Net.

EAS believes that compliance relating to disconnection of vulnerable customers must be accompanied by detailed and specific requirements. The imminent rollout of smart meter installations (and therefore the potential for remote disconnection) makes it imperative that Ofgem provides suppliers with definitive obligations.

## **2. Reconnection of Vulnerable Customers Before Winter**

Ofgem states that it is not minded to introduce a specific requirement that a vulnerable household be reconnected in advance of winter and justifies this by reference to the Energy Retail Association (ERA) Safety Net which requires reconnection within 24 hours of vulnerability status being established at all periods of the year. This raises two distinct issues:

- Is it reasonable that suppliers should be more zealous in protecting vulnerable households than the regulator and, if not, why do the licence conditions in question not proscribe disconnection for vulnerable households at any time?
- The other issue concerns the fluid nature of vulnerability criteria based on age or health status. Since energy suppliers cannot constantly monitor the circumstances of disconnected consumers there has to be a mechanism in place that requires energy suppliers to ascertain the status of disconnected households as winter approaches

EAS notes the support of one energy supplier for a requirement to reconnect all households in advance of winter and the pragmatic suggestion that this requirement would be qualified by a 'best endeavours' provision. EAS believes that Ofgem should reconsider its position (given their role in protecting the interests of vulnerable consumers) on this aspect of the licence conditions, to match this more radical perspective.

EAS also notes that the definitions of vulnerability implied in existing licence conditions are more restrictive than those suggested in the ERA Safety Net criteria. The Safety Net protection is extended to cover families with children and, at least in principle, offers protection to a wider group of vulnerable persons than is proposed by the regulator. EAS suggests that Ofgem should again seek to ensure concurrence between these licence conditions and the ERA Safety Net.

### 3. Consolidation of SLCs 27.10 and 27.11

EAS believes that there should be no distinction between the levels of protection offered to vulnerable groups and that there is no valid case for non-consolidation of these licence conditions, with SLC 27.10 serving as the more appropriate model. It should be noted that this does not imply support for consolidation of the existing (or proposed amended version) as the optimal outcome. EAS believes that licence conditions should go further in ensuring protection against disconnection for all vulnerable customers over all periods of the year and that there must be a mechanism to monitor circumstances where a household may, through age or health status, subsequently be classed as vulnerable.

#### General

EAS believes that Ofgem should specify both the monitoring activity/process and the enforcement actions for these licence conditions that would apply in the event of non-compliance. In addition, EAS considers it imperative that Ofgem reviews the following substantive issues in conjunction with 27.10 and 27.11:

- Installation of prepayment meters (PPM) to prevent disconnection (SLC 27.9)  
Customers should not be 'offered' a PPM as the first and only option. Where a PPM is identified as appropriate, vulnerable customers must have access to the necessary support to enable them to understand and use the PPM effectively. The risk of self-disconnection of a vulnerable customer is not an acceptable alternative to a supplier-instigated disconnection
- Setting affordable repayment rates  
Where a PPM is a genuinely viable/customer-preferred option, affordable repayment levels must be established in conjunction with the customer. Ofgem currently 'expects' that the level of debt repayment on a PPM is set at a rate similar to that for Fuel Direct. This 'expectation' is often not met by the suppliers