



Smart metering consumer protections package – statutory consultation

Citizens Advice response to Ofgem

August 2011

Introduction

Following Ofgem's consultation *Smart metering spring package – addressing consumer protection issues*, to which we responded in April, Citizens Advice welcomes the opportunity to respond to Ofgem's statutory consultation on proposed modifications to the gas and electricity supply licences.

The Citizens Advice service provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities. It values diversity, promotes equality and challenges discrimination. The service aims:

- To provide the advice people need for the problems they face.
- To improve the policies and practices that affect people's lives.

The Citizens Advice service is a network of nearly 400 independent advice centres that provide free, impartial advice from around 3,500 locations in England and Wales, including GPs' surgeries, hospitals, community centres, county courts and magistrates courts, and mobile services both in rural areas and to serve particular dispersed groups.

In 2010/2011 the Citizens Advice service in England and Wales advised over 2.1 million people on over 7 million problems. Debt (almost 2.3 million problems) and welfare benefits (almost 2.2 million problems) were the two largest topics on which advice was given.

Of the 2.3 million debt problems, almost 104,000 related to fuel debt. In addition, Citizens Advice Bureaux also dealt with over 40,000 problems about a range of other (non-debt) fuel matters.

When we responded to the spring package consultation in April, we welcomed Ofgem's intention to ensure that measures are put in place now to ensure that customers who take up smart meters before the mandated roll out are adequately protected. We are pleased that the proposed changes are now being taken forward, although we still have some concerns about whether these changes will go far enough to ensure adequate consumer protections. Our responses to the specific proposals are outlined below.

Remote switching to prepayment

Identifying safe and reasonably practicable

We are pleased to see that Ofgem intends to take forward the proposal to issue guidance on identifying whether it is safe and reasonably practicable for a customer to use a prepayment meter (PPM) and to require suppliers to have regard to this. We also welcome Ofgem's decision to proceed with the proposal to require suppliers to offer alternatives where they have reason to believe a PPM is no longer safe and reasonably practicable. We believe that the wording of SLCs 28.1A and 28.1B is appropriate.

However, we do have some concerns about the wording of the guidance. Some of these concerns have already been set out in our response to the spring package consultation, and we reiterate these here. However, we also note that some changes to the wording have been made since then, and not all of these are welcome. Our main concerns are as follows:

- We believe that the requirement on suppliers to identify a customer's circumstances in order to ensure that it is safe and reasonably practicable in advance of prepayment meter installation applies only in cases where the supplier offers a prepayment meter to someone who is struggling to pay. This possibly risks leaving customers who request a switch to a pre-payment meter or who are offered one for another reason under-protected.
- We would hope that customers who move into a home where there is already a prepayment meter or a smart meter operating in prepayment mode would be protected by the proposed obligation for suppliers to offer alternatives where it is no longer safe and reasonably practicable for the customer to have such a meter. However, to ensure that this will be the case it should be covered within the guidance.
- We are disappointed that the second proposed relevant factor in determining whether a prepayment meter would be safe and reasonably practicable, still refers only to distance as a factor to consider in determining safe and reasonably practicable. This wording is too narrow and fails to take into account other circumstances that may make it difficult for a client to get to a top-up outlet. The guidance should make clear that factors other than physical distance from an outlet may be relevant in determining whether it is practicable for a client to access an outlet.
- We are very disappointed that the point about checking that PPM customers can afford the debt repayment level has now been removed from the post-installation section of the guidance. Although we acknowledged in our previous submission that this may not have been sufficient to ensure that customers are actually able to afford their repayments, as a result of the unequal power relation between suppliers and their customers, it's intention was positive and it sent a helpful message to suppliers.
- The previous wording of the draft guidance was stronger in that suppliers were expected to visit customers if they had not been able to contact them by other means, or if there were still concerns after speaking to them, and they were expected to visit at various times of day. The current wording is that in these circumstances suppliers should take all reasonable steps to visit customers but there is no mention of trying at various times of day.

We are, however, very pleased that Ofgem has taken on board our suggestion to explicitly set out in the guidance its view that enforcement action would be appropriate in any single case of an inappropriate switch to a prepayment meter, especially if the customer were vulnerable.

We also welcome the inclusion of a qualification on using technical innovations to address circumstances that would otherwise be considered not to be safe and reasonably practicable. This will ensure that such innovations must only be adopted where suppliers are confident of being able to provide a supply to the customer at all times.

Information on PPMs and applying credit to the meter

We welcome the decision to ensure that suppliers give customers information about how to operate their PPM and the methods by which they can pay for credit, and to explicitly require suppliers to offer payment by cash.

We agree that the proposed wording of SLC 27.1 is appropriate. However, SLC 28.1 could be significantly improved by including a requirement for suppliers to provide information about how

standing charges will be collected. This is an issue which causes considerable difficulties for many CAB clients.

A CAB in Northumberland saw a man who lived alone on a very low income, in social housing. He was paying for his gas through a prepayment meter in order to help him try and budget, but for three weeks he had been unable to afford to top up his meter. When he did top up by £20, almost £10 was immediately deducted, leaving him with only just over £10 credit to last him two weeks. The deduction was broken down into 3 payments of £2.10 for 3 weeks' standing charges, plus a balance of £3.67 which was previously used emergency credit which he also had to repay. He did not understand that there was a weekly standing charge of £2.10 which was automatically added to his account every Wednesday morning and that by not topping up his credit for 3 weeks, he had automatically fallen into arrears. The CAB adviser reported that the client was distressed about this and he wasn't sure how he could manage until he next received his benefits without having to use emergency credit again on the meter and get into further debt.

A CAB in Lancashire reported that their client had had a prepayment meter at a previous property and in order to save money he had simply stopped using his gas. After moving house he received a large bill for gas. This was for a standing charge than had been accumulating, even though he had been using no gas. He was on employment and support allowance and had no hope of paying the bill.

A man went to a CAB in the East Midlands reported the case of a man who had stopped using his gas, and whose council had in fact capped his supply, but who had received a letter from a debt collection agency acting on behalf of his energy supplier. The agency was seeking to recover a debt of almost £150 which was made up of standing charges on the man's prepayment meter. The man was worried and distressed.

Remote disconnection

Identification of vulnerable customers

We welcome Ofgem's decision to proceed with requiring suppliers to have regard to guidance on what constitutes reasonable steps to identify the status of customers and occupants prior to disconnection, and we agree that proposed SLC 27.11B is appropriate.

On the whole we are supportive of the wording of the guidance on identifying vulnerable customers. We welcome the inclusion of Ofgem's view that a single breach would likely be considered worthy of enforcement action and that suppliers are reminded that they cannot disconnect a customer where there is a legitimate dispute. We are also very pleased that the guidance now includes an expectation that suppliers will check that they have encouraged customers to ask for help and that they have been directed to independent sources of help. We also welcome the addition of our suggestion that suppliers should to attempt to check a customer's circumstances with relevant third parties such as advice agencies.

We are disappointed, however, by another aspect of the change to the wording of the second step that suppliers will be expected to take. In the previous draft this included the need for suppliers to check that information has been provided in other languages if appropriate. This has now been taken

out of the guidance. This is a serious concern. While suppliers may not reasonably be expected to provide information in a different language for every customer for whom English is not a first language, we do not believe that the previous wording implied this. It did, however, highlight the need for suppliers to take into account customers' circumstances and ensure that communication was appropriate to their needs. It is a legal requirement under the Equality Act 2010 that reasonable adjustments are made for disabled people and this includes providing information in a format and a language that is appropriate for that individual. This could include large print, Braille, audio, or British Sign Language. We would like to see this point reflected in the guidance, with suppliers expected to check that their contact with customers was both in an appropriate language, and also an appropriate *format*.

Disconnection in error

We are pleased to hear that the six major energy suppliers have voluntarily committed to implementing commitments to rapid reconnection and compensation through the ERA Safety Net. We hope Ofgem will be successful in obtaining a parallel commitment from the smaller suppliers. However, the £50 minimum to which the ERA Safety Net commits suppliers is low, given the disruption, and in some cases, significant financial detriment, that may be caused to households who are disconnected in error. While we note that suppliers may provide a higher amount of compensation if it is appropriate to the circumstances of the case, it is not clear what these circumstances may be, or how customers will access higher amounts, and it seems likely that £50 will be a standard rather than a minimum. We do note that the automatic provision of a minimum amount of compensation, as opposed to requiring customers to apply for it is positive.

New approaches to disconnection

We welcome Ofgem's decision to proceed with introducing SLC 27.9A, which will set out that load limiting and credit limiting amount to disconnection in certain circumstances.

We still have some concern about the use of the term 'significantly constrained' in the proposed licence amendment relating to load limiting, and the fact that Ofgem has not provided any definition of this. We would not wish to see customers left without enough power for their essential use, including cooking, lighting, heating and cold storage of food. We hope that 'significantly' will be interpreted in such a way that load limiting to this extent will be regarded as amounting to disconnection.

We also remain concerned about the lack of protections relating to load limiting for PPM customers. We would wish to see some protections to prevent the possibility of customers being simply stuck long-term with a limited supply of energy via their pre-payment meter, for example, as a debt management tool to encourage the customer to pay off arrears more quickly. As we understand it, there is currently no protection in place to prevent this.

For this reason we have previously recommended that Ofgem considers ruling out load limiting altogether as a debt management tool.

We are, however, reassured to hear that the six major energy suppliers have committed to consulting Ofgem and Consumer Focus in advance of introducing any load limiting tariffs. We would hope that suppliers will take appropriate account of their views if and when they introduce such tariffs and Citizens Advice would be happy to provide an additional perspective on supplier proposals. We would be interested to know whether Ofgem is working with smaller suppliers to obtain a parallel

commitment. We are also pleased to hear that the situation concerning load limiting will be reviewed more widely in 12 months time.

Commercial interoperability

It is essential that customers who move to a smart meter are not locked in and remain free to switch supplier and we await Ofgem's further consultation on commercial interoperability in due course.

We accept that in the short term it may be necessary for smart meters to revert to dumb mode on change of supplier, but it is very important that early adopters of smart meters are made aware of this and any implications this may have are clearly explained. We welcome Ofgem's recognition of this in the current consultation document. It is also absolutely vital to ensure that early adopters are not misinformed by representatives of suppliers attempting to dissuade them from switching, who may tell them that it is not possible to switch following installation of a smart meter. We hope that Ofgem will take a tough line with any supplier found to be doing this.