



Ljuban Milicevic
Regulatory and Energy Economist
Ofgem
9 Millbank
London
SW1P 3GE

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Dear Ljuban Milicevic

Classification of premises for the purposes of the standard conditions of the gas supply licence

Thank you for the opportunity to respond to the consultation of the 12th of October.

We note your minded position to class only non-commercial collective purchase of gas supplied to a collective meter point as supply for domestic purposes.

You ask for replies to a series of questions which seem wholly aimed at supply companies and to which we cannot reply. ARMA can however comment on protection for domestic customers and on possible unintended consequences of your minded position.

Unintended Contradictions

1. It is not clear whether you are considering supplies of gas and electricity or just gas. The OFGEM letter only talks about gas supply. Surely it is intended that any changes should apply to electricity supplies as well; not do so would seem strange and not be even handed to consumers as well as utilities.

2. How will you define a non-commercial collective entity on a not for profit basis? You will be challenged on this. This seems to imply that the change would only apply to resident management companies. But some resident management companies do not have all residents as members of that company. Would these qualify? What if the resident management company delegates its functions to another legal entity, a managing agent? Would that qualify?

Resident management companies mostly exist in the private leasehold sector; rarely in social housing. You are therefore favouring one class of people over another.

What about the blocks of flats which do not have a resident management company as the landlord. The landlord may be a charitable housing association or a local authority or a private company that are not supplying for commercial gain. Most landlords do not sell on supply because there are regulations and constraints on landlords under the Landlord and Tenant Acts. You seem to imply there is a very special case here relating to very few blocks so why are you changing licensing conditions for a special minority interest. You will offend and produce different results in supply in adjacent blocks dependent on the history of those blocks.

2. Protections for Domestic Customers

You rightly raise the issue of protections for domestic customers where the volumes of supply are very different to normal domestic customers. ARMA has been concerned for some time about disconnections of the supplies to common parts of blocks of flats including those where the gas supply provides heat to domestic customers from a communal meter.

ARMA has been in contact with ERA on this matter for some time and I am pleased to say we have nearly reached an agreed joint protocol to avoid unnecessary disconnections of supply. You will find the latest version attached to the e mail with this response. This protocol will provide some of the protections that OFGEM seeks and I would welcome your views upon it.

3. The Attitude of Utility Companies to Resident Management Companies

The effect of your minded position will mean that most landlords and collective resident management companies that are responsible for collective supply of gas and electricity of common parts to flats will continue to be commercial customers. But there are still major problems for blocks of flats caused by suppliers.

ARMA estimates that for about 60% of blocks of flats in England and Wales the effective landlord for supplies to common parts is a resident management company. Utility companies have taken in recent years a tougher and tougher stance with these companies. Under Landlord and Tenant law, landlords including resident management companies have to collect and spend service charges as trustees (S42 of 1987 L&T Act). The company acts a trustee but the service charge monies do not belong to the company. This means that these companies generally have no assets and many file as dormant at Companies House.

In recent years utility companies have applied commercial credit checks on resident management companies and some have refused to supply, effectively stifling competition and any search for best value. Others will only supply if large deposits are made; this is not practical for most of these companies as they do not hold any reserves. Others demand direct debit payments; a trustee or its managing agent cannot do this. For example it is against RICS rules to set up a direct debit on a client or trust account.

There needs to be consideration by suppliers for the position of landlords and resident management companies responsible for supplies to blocks of flats. This may be commercial supply as defined by OFGEM but normal rules cannot apply.

Yours sincerely,

John Mills
ARMA Technical Consultant

The Association of Residential Managing Agents

The Association of Residential Managing Agents (ARMA) is the only body in England & Wales to focus exclusively on matters relating to the management of residential leasehold blocks of flats. ARMA has over 250 corporate members managing some 900,000 leasehold units in more than 34,000 blocks (at least 60% of which are lessee-controlled properties) ARMA's founding principal aims are to represent its members and therefore the interests of lessees, resident management companies and investor freeholders.

It is estimated that there are over 1.8 million private leasehold flats in England and Wales. Whether the buildings in which they are situated are owned and controlled by investor freeholders or the lessees themselves, a large proportion employ managing agents to handle the day to day running and ongoing cyclical maintenance of their buildings.

Managing agents have a unique and important role to play in managing other people's homes and money - a role that requires an in-depth knowledge of residential management, a wide range of skills and the utmost professionalism.

ARMA was founded in 1991 with the aim of bringing together professionals involved in residential block management.

Its principal objectives are to...

- promote the highest standards of management.
- create and maintain an awareness amongst property owners, developers, residents as well as national and local government of the proper role of - and indeed the need for - residential managing agents.
- provide a forum where members involved in the management of residential blocks of flats can discuss and develop management practices to enhance service to clients and lessees.
- fix and endeavour to maintain consistent standards of practice amongst members in an otherwise unregulated market.

All members endorse, accept and undertake to comply with the RICS code of practice "Service Charge Residential Management Code" approved by the Secretaries of State for England and Wales under the terms of Section 87 of the Leasehold Reform, Housing and Urban Development Act 1993.