



**Notice of reasons pursuant to Section 38A(1)(f) of the Gas Act 1986 and Section 49A(1)(f) of the Electricity Act for the decision of the Authority to make a provisional order under Section 28(2) of the Gas Act 1986 and Section 25(2) of the Electricity Act 1989**

1. This notice sets out the reasons why, on 27 March 2018, the Gas and Electricity Markets Authority ('the Authority') made a provisional order in respect of contraventions or likely contraventions by Iresa Limited (company number 08186664) having its registered office at The Quadrant Business Centre, Nuart Road, Beeston, Nottingham, NG9 2NH ("Iresa"), of its obligations under: (i) the standard conditions of the gas supply licence granted under section 7A(1) of the Gas Act 1986 ('the Gas Act'); and (ii) the standard conditions of the electricity supply licence granted under section 6(1)(d) of the Electricity Act 1989 ('the Electricity Act').
2. This is a notice pursuant to section 38A(1)(f) and (2) of the Gas Act and section 49A(1)(f) and (2) of the Electricity Act which provide that the Authority shall publish a notice stating the reasons for the decision to make a provisional order as soon as reasonably practicable after making such a decision.
3. Iresa is the holder of a licence granted under section 7A(1) of the Gas Act and a licence granted under section 6(1)(d) of the Electricity Act.

**A. Background**

4. In February 2017, Ofgem<sup>1</sup> became aware of a number of customer service and other issues through an increased level of consumer contacts to Ofgem and to the Citizens Advice Consumer Service (CACS)<sup>2</sup>.
5. In April 2017, Iresa voluntarily suspended customer acquisition by withdrawing its tariff from the market for 13 weeks. Customer service processes improved slightly throughout this period; however, call waiting times remained high.
6. Following Iresa's voluntary suspension of customer acquisitions, various customer service issues were still not at an acceptable level and in July 2017 Ofgem gave Iresa 10 weeks to make a number of specified improvements.
7. In November 2017, Ofgem reviewed Iresa's progress. While Iresa had made improvements in some areas, concerns remained as to whether improvements to call waiting times and complaints handling were embedded and would be sustained.

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<sup>1</sup> The Office of the Gas and Electricity Markets, governed by the Gas and Electricity Markets Authority.

<sup>2</sup> CACS is the national consumer body in a number of regulated sectors including energy services in Great Britain; it also has a wider role in undertaking policy research and leading campaigns for the benefit of consumers.

8. Over the period December 2017 to January 2018, Ofgem became aware through its own monitoring function, and information received from CACS and the Ombudsman Services: Energy (OS:E<sup>3</sup>) of further issues, including that Iresa had experienced a sharp increase in complaints arising from an increase in customers' direct debits following a review and one-off payments taken from consumers' accounts.
9. Information gathered by Ofgem and CACS suggested that customers were not able to contact Iresa, and more specifically that a significant number of customers were still continuing to experience high call waiting times and emails were not being responded to.
10. Iresa had also put a notice on its website asking customers to only contact the supplier by email but then failed to respond to customers' emails within Iresa's own response target time of 5 working days, with some customers' emails being outstanding for a longer period of time.
11. In February 2018, Ofgem decided that Iresa had not made sufficient improvement in its compliance and on 12<sup>th</sup> February an enforcement investigation was opened. The investigation focuses on the following issues:
  - a. Standards of Conduct – call and email handling
  - b. objections to customer transfers
  - c. notification of increases for the charges of supply of gas and/or electricity
  - d. customer refunds
  - e. customer ability to pay
  - f. issues concerning customer complaints logging and handling.
12. However, Iresa was advised that if further concerns emerged the scope of the investigation may be extended.
13. On opening the investigation, Ofgem received and reviewed further information (from Ofgem's own monitoring function, social media, CACS, and the O:SE) which indicated that there was a need to take immediate action to protect customers' interests. This information indicated, amongst other matters, very high call waiting times for customers seeking to speak to Iresa on the telephone, a significant backlog of unanswered email contacts from customers, and the likelihood that vulnerable customers were not being identified. As a result, Ofgem has taken the step of issuing a provisional order to Iresa which sets out clear steps it needs to take within specified timescales to resolve issues and thereby achieve compliance with its obligations.

## **B. Contravention or likely contravention**

14. Based on the information received by Ofgem, it appears to the Authority that Iresa is contravening or is likely to contravene condition SLC 0.2, 0.3c) and 0.3 d) (Treating Customers Fairly).

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<sup>3</sup> The Ombudsman is a service approved by the Authority to independently handle disputes between energy companies and their customers, which includes domestic customers and micro businesses.

15. SLC 0.2 provides “The licensee must, and must ensure that its Representatives, achieve the Standards of Conduct in a manner consistent with the Customer Objective”.

16. SLC 0.3<sup>4</sup> (Achieving the Standards of Conduct) The Standards of Conduct are that the licensee and any Representative:

c) in relation to customer service arrangements:

- i. make it easy for a Domestic Customer to contact the licensee;
- ii. act promptly and courteously to put things right when the licensee or any Representative makes a mistake; and
- iii. otherwise ensure that customer service arrangements and processes are complete, thorough, fit for purpose and transparent;

d) in relation to Domestic Customers in Vulnerable Situations;

- i. seek to identify each Domestic Customer in a Vulnerable Situation, in a manner which is effective and appropriate, having regard to the interests of the Domestic Customer; and
- ii. when applying the Standards of Conduct in paragraphs (a) to (c) above, do so in a manner which takes into account any Vulnerable Situation of each Domestic Customer identified with (d)(i) above or otherwise.

17. The Customer Objective is to be interpreted in a manner consistent with SLC 0.1. The term fair and other cognate expressions is defined at SLC 0.9 as:

The licensee or any Representative would not be regarded as treating a Domestic Customer Fairly if their actions or omissions give rise to a likelihood of detriment to the Domestic Customer, unless the detriment would be reasonable in all the relevant circumstances.

18. The term Vulnerable Situation is defined as:

Means the personal circumstances and characteristics of each Domestic Customer create a situation where he or she is:

- a. significantly less able than a typical Domestic Customer to protect or represent his or her interests; and/or
- b. significantly more likely than a typical Domestic Customer to suffer detriment or that detriment is likely to be more substantial.

**19. Reasons for provisional order**

20. Section 28(2) of the Gas Act and section 25(2) of the Electricity Act provide that where it appears to the Authority:

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<sup>4</sup> A copy of the relevant condition can be found on the Ofgem website at <https://www.ofgem.gov.uk/licences-industry-codes-and-standards/licences/licence-conditions>.

- a. that a regulated person is contravening, or is likely to contravene, any relevant condition or requirement; and
  - b. that it is requisite that a provisional order be made, the Authority shall (instead of taking steps towards the making of a final order) by a provisional order make such provision as appears to it requisite for the purpose of securing compliance with that condition or requirement.
21. As described in paragraphs 9 to 13 above, it appears to the Authority that Iresa is contravening, or is likely to contravene, SLC 0.2, 0.3 c) and 0.3 d).
22. The Authority considers that it is requisite to make a provisional order against Iresa. In reaching this decision, the Authority has considered the following factors pursuant to section 28(3)(a) of the Gas Act and section 25(3)(a) of the Electricity Act:
  - a. that it appears to the Authority that Iresa is likely to act in contravention of SLC 0.2, 0.3 c) and 0.3 d) meaning that action must be taken by the Authority as a matter of urgency to ensure the compliance of Iresa with SLC 0.2, 0.3 c) and 0.3 d);
  - b. that, despite engagement between Ofgem and Iresa, Iresa has failed to demonstrate, to the satisfaction of Ofgem, that it is fully compliant with SLC 0.2, 0.3 c) and 0.3 d);
  - c. that the information provided by Iresa indicates that approximately 23,000 customers continue to be affected by Iresa's poor consumer service arrangements in relation to email contact. Customers who attempt to contact Iresa may be subject to long call waiting times (an average of 40 minutes);
  - d. customers are often unable to log an expression of dissatisfaction due to Iresa's poor complaint handling process which indicates that customer concerns may not be addressed in an appropriate and timely manner;
  - e. at the case opening site visit, Ofgem found that Iresa does not currently have a function in place to record and manage vulnerable customers. This means there could be a proportion of Iresa's customer base who require support and are not receiving it;
  - f. in light of the above, a significant number of customers of Iresa are likely to sustain loss or damage in consequence of Iresa's poor consumer service arrangements and complaints handling processes in apparent contravention of SLC 0.2, 0.3 c) and 0.3 d) and before a final order may be made.
  - g. If Iresa continues to increase direct debits and ask for one-off payments excluding those relating to customers in default, without having first addressed the shortcomings in its customer service arrangements, this would likely generate significant volumes of customer enquiries made via e-mail and telephone, which in turn is likely to lead to longer call waiting times, more unanswered e-mails and thus result in Iresa continuing to fail to meet the requirements of the SLC 0.2, SLC 0.3 c) and d).
23. Given these significant concerns, Ofgem also considered it necessary to place a prohibition on Iresa acquiring new customers (on the basis that Iresa is unable to provide adequate customer service to its existing customers). Furthermore, Ofgem has considered it necessary to put a stop to further one-off payment requests and/or increases to customer direct debits (on the basis that a key driver of Iresa's customer service problems - and so the apparent contraventions of SLC 0.2, 0.3 c) and 0.3 d) - has been its inability to field customer enquiries generated by such payment requests / direct debit reviews).

24. Pursuant to section 28(3)(b) of the Gas Act and section 25(3)(b) of the Electricity Act, the Authority has had regard to the fact that the effect of the provisions of sections 28 and 30 of the Gas Act and section 25 and 27 of the Electricity Act is that the making of a provisional order will exclude the availability of any remedy (apart from under those provisions of the Act or for negligence) in respect of any contravention of a relevant condition or requirement.
25. Pursuant to section 28(5) of the Gas Act and section 25(5) of the Electricity Act, the Authority has considered that the duties imposed on it by sections 4AA, 4AB and 4A of the Gas Act and sections 3A to 3C of the Electricity Act do not preclude the making of this provisional order.
26. Pursuant to section 28(4A) and section 25(4A) of the Electricity Act, the Authority has considered whether it would be more appropriate to proceed under the Competition Act 1998.
27. For the reasons set out above, the Authority has made the provisional order. It will cease to have effect on 27th June 2018 unless confirmed by the Authority on or before that date.

**C. Content of the order**

28. The provisional order is available on the Ofgem website at:  
<https://www.ofgem.gov.uk/publications-and-updates/iresa-provisional-order>.

**James Waugh**

**Associate Partner: Enforcement – Improving Regulation**

**Duly authorised on behalf of the Gas and Electricity Markets Authority**

Dated 28 March 2018