

Notice of reasons pursuant to section 38A(1)(f) of the Gas Act and section 49A(1)(f) of the Electricity Act for the decision of the Authority to confirm a Provisional Order under Section 28(4) of the Gas Act and Section 25(4) of the Electricity Act

1. This document sets out the reasons why, on 25 June 2018, the Gas and Electricity Markets Authority (“the Authority”) confirmed the Provisional Order without modifications 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 the Gas Act 1986 (“Gas Act”) and the Electricity Act 1989 (“Electricity Act”).
2. This is a document pursuant to section 38A(1)(f) of the Gas Act and section 49A(1)(f) of the Electricity Act which provides that the Authority shall publish a notice stating the reasons for its decision to confirm the Provisional Order addressed to Iresa.
3. Iresa is the holder of a licence granted under section 6(1)(d) of the Electricity Act and a licence granted under section 7A(1) of the Gas Act.

A. Provisional Order and consultation process

4. The background to the reasons for issuing the Provisional Order of 27 March 2018 is set out in the Reasons document dated 28 March 2018.
5. A copy of the Provisional Order issued on 27 March 2018 and the Reasons document dated 28 March 2018 can be found at: <https://www.ofgem.gov.uk/publications-and-updates/iresa-provisional-order>.
6. Ofgem has continued to monitor information provided by Iresa, Citizens Advice consumer service and the Citizens Advice Extra Help Unit (which has a remit to support vulnerable consumers), and the Energy Ombudsman (OS:E) since the Provisional Order was issued on 27 March 2018.
7. Ofgem published a notice of its proposal to confirm the Provisional Order on 31 May 2018 and invited representations and objections to the notice to be made to the Authority. The notice of proposal to confirm the Provisional Order can be found at: https://www.ofgem.gov.uk/system/files/docs/2018/05/notice_of_proposal_to_confirm_provisional_order_31_may_2018.pdf.
8. In response to this consultation the Authority received three representations.

9. Iresa made written representations in response to the Authority's proposal to confirm the Provisional Order, objecting to the proposal to confirm the Provisional Order. Iresa stated that as their representation contained confidential information it should not be published. The representations were accompanied by a report from a professional services firm. The covering letter to the Authority from the professional services firm stated that the Authority "will not be entitled to rely upon the Report or any information or explanation for any purpose whatsoever" and the "information ... should not be ... referred to ... in any document". Accordingly, the Authority has been able to make only limited use of that report.
10. Citizens Advice consumer service and the Citizens Advice Extra Help Unit (which has a remit to support vulnerable consumers) provided a joint response which welcomed the Authority's proposal to confirm the Provisional Order on Iresa. They acknowledged that they have seen some improvement in Iresa's performance between April to June 2018 but continue to receive contacts from Iresa customers experiencing ongoing problems with the company's customer service as well as difficulties switching away from them.
11. An ex-customer of Iresa said that they supported the proposal to confirm the Provisional Order due to his experience with poor customer service.
12. The Authority has taken these three representations into account in reaching its decision.
13. The Authority's assessment of Iresa's compliance with the relevant Standard Licence Conditions is set out below.

B. Contravention or likely contravention

14. On the basis of information received by it, the Authority is satisfied that Iresa is contravening or is likely to contravene the following relevant conditions or requirements (as applicable):
 - a. Standard Licence Condition ("SLC") 0.2;
 - b. SLC 0.3 c); and
 - c. SLC 0.3 d) (Treating Domestic Customers Fairly).
15. SLC 0.1 sets out the customer objective which is 'for the licensee and any Representative to ensure that each Domestic Customer, including each Domestic Customer in a Vulnerable Situation, is treated Fairly ("the Customer Objective")'. SLC 0.2 provides that 'The licensee must, and must ensure that its Representatives, achieve the Standards of Conduct in a manner consistent with the Customer Objective'.
16. The term 'Fair' (and cognate expressions) is defined at SLC 0.9 as:
 - i. '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.'
17. SLC 0.3 relates to achieving the Standards of Conduct. SLC 0.3 c) details one standard of conduct (the other two are detailed by SLC 0.3 a) and SLC 0.3 b)) being 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.'
18. SLC 0.3 d) sets out another standard of conduct which the licensee and any Representative are required to achieve by SLC 0.2, such standard of conduct being 'in relation to Domestic Customers in Vulnerable Situations the licensee and any Representative:
- 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) above¹, do so in a manner which takes into account any Vulnerable Situation of each Domestic Customer identified with (d)(i) above or otherwise.'
19. The term 'Vulnerable Situation' is defined at SLC 0.9 as:
- 'The personal circumstances and characteristics of each Domestic Customer create a situation where he or she is:
- i. significantly less able than a typical Domestic Customer to protect or represent his or her interests; and/or
 - ii. significantly more likely than a typical Domestic Customer to suffer detriment or that detriment is likely to be more substantial.'

C. Reasons for confirming Provisional Order

20. Section 25(4) of the Electricity Act and section 28(4) of the Gas Act provide that 'the Authority shall confirm a provisional order, with or without modifications, if:
- (a) it is satisfied that the licence holder to whom the order relates is contravening, or is likely to contravene, any relevant condition or requirement; and
 - (b) the provision made by the order (with any modifications) is requisite for the purpose of securing compliance with that condition or requirement.'
21. The information that has informed the Authority's decision to confirm the Provisional Order without modification includes information obtained from complaints from the Energy Ombudsman (OS:E), Citizens Advice consumer service and the Citizens Advice Extra Help Unit (which has a remit to support vulnerable consumers) and representations the Authority received as part of the consultation on whether or not to confirm the Provisional Order. Accordingly, the Authority is satisfied that Iresa's customer services arrangements, specifically its telephony and web/email customer service arrangements are, at the present time, inadequate to ensure compliance with the relevant conditions cited in section B. The Authority notes that a new complaints and vulnerable customer process has been implemented; however, the Authority does

¹ The reference to 'paragraphs (a) to (c) above' is a reference to SLC 0.3 (a) to (c).

not yet have sufficient evidence to suggest that these processes fully meet the requirements of the relevant conditions cited in section B. Furthermore, the Authority continues to have concerns regarding the accuracy of the data provided by Iresa in relation to compliance with the provisions of the Provisional Order.

Customer Service Arrangements

22. SLC 0.3 c) i. requires the licensee to have customer service arrangements in place which make it easy for a Domestic Customer to contact the licensee.
23. Paragraph 1.ii.a. of the Provisional Order required Iresa to extend its call centre hours from 8am to 8pm Monday to Friday and on a Saturday from 8am to 6pm. The Authority has reviewed evidence to show that calls are being taken during these times and is satisfied that this provision has been met since 9 April 2018.
24. Paragraph 1.ii.b. of the Provisional Order required Iresa to put an Interactive Voice Response ("IVR") in place by 3 April 2018 to deal with large volumes of customer calls and long call waiting times. An IVR system was put in place by 30 April. The Authority has requested information regarding Iresa's IVR system on a number of occasions; however a detailed explanation was not supplied until 21 June 2018.
25. The IVR system implemented by Iresa puts the customer back into a specific call queue, it does not arrange a ring back *per se*. The customer will be 'dialled' by the automated system, placed into a call back queue and when a customer service agent becomes available they will be connected to this agent. The customer will then have the opportunity to relay their concerns or request to the Iresa agent. The IVR 'call back request' message presents itself when the customer has been waiting on the phone for 10 minutes. Also, if the customer presses number '1' (IVR call back request button) at any point during the call they will be added to the call back queue which means they may receive a call when they technically haven't requested one.
26. The Authority has been made aware that a number of call back requests have not in fact resulted in the caller being rung back since the IVR system went live until mid-June 2018 when an issue was identified. The Authority understand that a fix has been applied to rectify this issue but is, as yet, unsure whether it has been successful.
27. The Authority recognises that positive steps have been made to implement an IVR system, but the Authority has not yet seen evidence of how the IVR system operates in practice for a significant enough period of time to assess whether the IVR will address customers' needs.
28. Iresa's customers were experiencing long call waiting times until 2 May 2018. From then average call waiting times have started to reduce, and have been mostly compliant with the requirements of the Provisional Order with the average call waiting time remaining less than 5 minutes since 2 May 2018. However, whilst we have seen an improvement we believe this may be as a result of a fall in the total number of incoming calls. From the data Iresa has provided to the Authority, it appears that when Iresa's call volumes go over (around) 750 - 800 calls per day², its daily average call waiting time begins to increase. Any significant increase in calls has consistently been unmanageable for Iresa. The longest period of time Iresa has consecutively met the 5-minute call waiting target is 14 working days which is not yet to the consistent

² Iresa receives significantly lower call numbers at weekends.

standard that the Authority would expect to see to give confidence in Iresa's compliance with the requirements of the Provisional Order and SLC 0.3 c) i) on a sustainable basis. Similarly the level of 'dropped calls'³ started to improve in May 2018, with the exception of one substantial spike mid-May 2018. However, whilst we have seen an improvement we believe this may be as a result of a fall in the total number of incoming calls and as mentioned above it appears that when Iresa's call volumes increase the number of dropped calls rises. The Authority will continue to monitor this issue as part of assessing Iresa's compliance with SLC 0.3 c) i).

29. On 7 June 2018 the Authority highlighted to Iresa inaccuracies in the reports submitted to the Authority as required by the Provisional Order. These inaccuracies have affected the data the Authority has received from Iresa regarding call numbers and average call waiting times. The Authority is still assessing the degree and extent of these inaccuracies but at present is not yet confident that all of the information supplied in relation to the average call waiting time is fully accurate. The Authority has highlighted these discrepancies to Iresa and will continue to monitor this to ensure the reports are submitted correctly in future.
30. For the reasons given above, we are not yet satisfied that Iresa has demonstrated a sustainable level of service which meets the requirements of SLC 0.3 c) i. The Authority is monitoring Iresa's call volumes to review if it can manage an upturn in calls particularly if a significant incident should occur such as a customer billing cycle or meter reading requests.
31. In addition to the requirement to make it easy to contact the licensee described above, SLC 0.3 c) ii. requires the licensee to act promptly and courteously to put things right when the licensee or any Representative makes a mistake. Iresa is unable to demonstrate that it has responded (or responded substantively) to all emails within 5 working days and provide an explanation for emails that cannot be resolved within 10 working days in accordance with the requirements of paragraph 1.ii.e. of the Provisional Order. The first three weeks of email reports submitted to the Authority (submitted 13 April, 20 April, 27 April – these represent data from 28 March 2018 to 26 April 2018 inclusive) contained errors (the errors were highlighted by the Authority to Iresa). The revised reports received by the Authority from Iresa do not show any significant improvement in response times or resolutions.
32. In the cumulative, the weekly email reports received by the Authority from Iresa, representing email data from 28 March to 14 June 2018, show that 67.1% of emails were responded to within 5 working days and 58.6% of emails were resolved within 10 working days. Since the Provisional Order was made on 27 March 2018, Iresa's progress to resolve emails, which is shown in their ten weekly reports starting 13 April 2018, has had an average of 67.8% of emails responded to within 5 working days and 57% of emails resolved within 10 working days across the reporting period. The weekly averages for response times have stagnated and percentages remain between 60 to 68%, indicating little or no improvement. Accordingly, neither the 5 nor the 10 working days' targets have been met, as required under paragraph 1.ii.e. of the Provisional Order.

³ When customer calls are not answered or the customer hangs up, the call is known as being 'dropped'.

33. Iresa's representation, which was submitted on 21 June 2018, yet again provided email reports that were calculated differently from the weekly email reports the Authority has been receiving from Iresa. More specifically, the 'new' reports show that weeks' 9 and 10 email data is significantly different. The Authority will discuss this with Iresa in due course as the inconsistency in reporting methodology does not provide sufficient confidence in the robustness of Iresa's reporting to enable the Authority to be confident that Iresa is progressing adequately in respect to this provision of the Provisional Order.
34. Iresa has been unable to ensure that all outstanding emails received prior to 27 March 2018 have received a response by 30 April 2018 (in accordance with paragraph 1.ii.g. of the Provisional Order). The Authority has previously made various attempts to obtain an update from Iresa on its compliance with this provision of the Provisional Order and some information was received. However, the information appeared to be either incorrect, not in the format requested by the Authority, or still under review by Iresa.
35. An update on this provision was provided within Iresa's representation of 21 June 2018; however the information provided was again questionable and cannot clearly explain the email backlog position. Iresa has also failed to clarify its position in relation to the email backlog and whether 'each such response addresses the subject matter of the outstanding email it is responding to'⁴ (as required under the Provisional Order). Iresa's representation also shows that if a customer makes multiple enquiries and a live email/web email is open, this is appended to the same ticket and only counted once. Iresa's lack of consistent and robust information shows that it cannot confidently confirm the number of outstanding emails in its backlog.
36. On the evidence available to the Authority, the Authority has concluded that Iresa has not complied with, and will likely not comply with, the requirements of paragraph 1.ii.g. of the Provisional Order.
37. For these reasons, the Authority is satisfied that Iresa has not taken sufficient or all steps to ensure that it has adequate customer service arrangements to enable it to act promptly and courteously to put things right in the event it makes a mistake and it is likely that Iresa will continue to contravene SLC 0.3 c) ii).
38. SLC 0.3 c) iii. requires the licensee to have customer service arrangements and processes which are complete, thorough, fit for purpose and transparent. In evidence submitted to the Authority, there has been regular inconsistent reporting of complaints and expressions of dissatisfaction. The method of calculating timeframes for the resolution of complaints presented to the Authority has been questionable due to the difficulty with flagging a customer interaction as a complaint in the first instance, which means staff have had difficulty in managing complaints in accordance with the requirements of paragraphs 1.ii.h.i. and h. ii. of the Provisional Order⁵. Based on the data/reports received by the Authority since 27 March 2018 and Iresa's response to the Authority's further questions seeking clarification, it is clear that Iresa has had no consistent means of identifying complaints.

⁴ This subject was not addressed in Iresa's representation of 21 June 2018.

⁵ No unique complaint reference number in use; two separate methods of flagging a customer interaction as a complaint differentiating between OS:E cases and other complaints; complaints reports that didn't cross-reference; complaints reports with inaccurate data and complaints reports containing non-complaints.

39. Iresa advised the Authority that a new complaints recording function had been implemented on 11 May 2018 and supporting documentation was supplied. A new high-level summary complaints report provided data on open and resolved complaints from 21 March 2018 to an unspecified date. There were some inaccurate values detailed in the report, which indicates that Iresa has issues with aggregating data for reports, and no underlying detailed data was provided. At present, there is insufficient evidence to show that Iresa's (updated) complaints handling function is working effectively.
40. Up until mid-June 2018, Iresa had not provided any information to the Authority which showed that customers who have raised complaints have been signposted to the correct third party i.e. Citizens Advice consumer service and the Citizens Advice Extra Help Unit (which has a remit to support vulnerable consumers), or the OS:E. Iresa has recently provided information to show that the OS:E process is now automated and customers will now receive an email when their complaint has reached the 8 week mark which provides information on the OS:E. Iresa has also updated the 'footer' on emails/support tickets. The Authority does not currently have sufficient information to enable it to assess Iresa's compliance with paragraphs 1.ii.h. iii. and h. iv. of the Provisional Order. The Authority will be monitoring this area to ensure customers continue to receive the support they require.
41. Citizens Advice consumer service saw a peak in unique contacts from consumers requesting assistance regarding Iresa in March 2018. The most recent quarterly customer service ratings data published by Citizens Advice (covering the period January-March 2018) shows Iresa last for customer service, with its lowest-ever score.⁶ Since the Provisional Order has been in place, unique contacts from consumers have decreased. In May 2018, enquiries from consumers were 67% lower than the peak period.
42. The Citizen's Advice Extra Help Unit (which has a remit to support vulnerable consumers) followed a similar pattern to Citizens Advice consumer service and saw a peak in new cases from consumers requesting assistance regarding Iresa in March 2018. Total cases opened regarding Iresa between January and May 2018 was more than 3 times higher than the total number of cases for 2017. Since the Provisional Order has been in place, new cases from consumers have decreased. In May 2018, new cases from consumers were 64% lower than the peak period.
43. The OS:E has accepted a significant number of Iresa cases between March and May 2018 (1,392) which is more than the number of cases relating to Iresa accepted for the whole of 2017. Although the number of OS:E cases relating to Iresa opened during May 2018 was slightly lower compared to previous months, it was more than 3 times higher than the average number of cases opened during each month in 2017.
44. It is likely that the reduction in new cases is a result of the provisions in paragraph 2 of the Provisional Order as well as the (limited) improvements to customer service arrangements which Iresa has made since March 2018, and which are considered in this notice. In any event, the Authority's assessment of this data is that this reduction comes from a very poor starting point. Given this and the very poor consumer outcomes customers have experienced, the Authority needs to be satisfied that

⁶ <https://www.citizensadvice.org.uk/about-us/how-citizens-advice-works/citizens-advice-consumer-work/supplier-performance/energy-supplier-performance/compare-domestic-energy-suppliers-customer-service/>

customer service improvements are likely to be sustained to ensure ongoing compliance with the relevant SLCs. This is not the case at present.

45. We will continue to monitor complaints information from Citizens Advice consumer service, Citizens Advice Extra Help Unit (which has a remit to support vulnerable consumers) and the OS:E.
46. For these reasons, the Authority is satisfied that Iresa does not yet have customer service arrangements and processes in place which are complete, thorough, fit for purposes and transparent and it is likely that Iresa will continue to contravene SLC 0.3 iii).

Vulnerable Customers

47. To date, Iresa has failed to provide sufficient evidence to the Authority to demonstrate that it has met the requirement to implement a process to identify Domestic Customers in a Vulnerable Situation in accordance with paragraph 1.ii.i and 1.ii.j. of the Provisional Order.
48. On 15 May 2018 Iresa informed the Authority that it had contacted customers over the age of 60 by email offering to register them on the Priority Services Register ("PSR")⁷. However, this exercise seems to focus on customers over 60 only and no other categories of potential vulnerability.
49. On 14 May 2018 the Authority received updated information from Iresa to say that Iresa has changed its call scripts for call handlers and has added system changes to clearly identify when a customer is on the PSR or may be vulnerable.
50. When customers are taken through data protection questions/information at the start of a call to confirm their details, any customer registered as being 60 or over is automatically added to the PSR. Customers are also now made aware of other categories on the PSR and any relevant issues are added to it – however the documentation provided by Iresa does not state how proactive this process is, merely that it has taken steps to raise customer's awareness. The Authority recognises that this is a positive step, however this is the first time that this service has been offered to customers and so it is likely that there are vulnerable consumers who have not (yet) been identified by Iresa and that there is more progress to be made in this area.
51. For these reasons, the Authority is satisfied that Iresa does not yet have an adequate process in place to identify a Domestic Customer in a Vulnerable Situation in a manner which is effective or appropriate and it is likely that Iresa will continue to contravene SLC 0.3 d) i) and ii).

The Customer Objective and overall conclusions

52. The Authority's assessment is that:
 - a. There is a causal connection between the demands for one-off payments and increases in direct debits and the poor customer service arrangements experienced by Iresa's customers. For example, there were, prior to the prohibition of these by the Provisional Order, spikes in telephone and email traffic immediately following a notification of one-off payments.

⁷ The total number of customers 'over 60' who have been contacted by Iresa has changed significantly in each update. The Authority was advised on 21 June 2018 that the number was 23,000, 13,000 on 7 June and 7,000 on 15 May.

- b. Further to the above, although the average call waiting time has improved, Iresa is still not in a position to anticipate or manage a significant increase in call or email traffic from its customers and the Authority will continue to monitor this until it has remained in compliance for a sustained period of time.
 - c. Given the issues identified by the Authority, in relation to managing call volumes and/or email traffic and the fact that Iresa has been unable to clear its outstanding backlog of emails or provide information to say whether it has addressed the subject matter of each email, the Authority has concerns around Iresa's ability to ensure that its customers: will be billed correctly; are not in payment difficulty; have had their vulnerability needs registered and addressed if appropriate; and are not disputing the charges on their account.
53. For these reasons the Authority is satisfied that Iresa has not taken or yet been able to demonstrate that it has taken adequate steps to meet the requirements of the Provisional Order and in failing to do so it is unable to achieve the Standards of Conduct in a manner which is consistent with the Customer Objective. As a result, the Authority believes Iresa's actions and omissions give rise to a likelihood of detriment to the Domestic Customer which, in the Authority's view is not reasonable in these circumstances, and the Authority is satisfied that Iresa will likely continue to contravene SLC 0.1.
54. Accordingly, the Authority is satisfied that the provisions made by the Provisional Order are still requisite for the purpose of securing compliance with the relevant licence conditions, SLC 0.2, 0.3 0 c) and 0.3 d).
55. The Authority has considered the duties imposed on it by sections 4AA, 4AB or 4A of the Gas Act and sections 3A to 3C of the Electricity Act and is satisfied that those duties do not preclude the Authority from confirming the Provisional Order.
56. The Authority does not consider that it would be more appropriate to proceed under the Competition Act 1988 pursuant to section 28(4A) of the Gas Act and section 25 (4A) of the Electricity Act.
57. The Authority has considered all of the circumstances, including Iresa's current financial situation, and has decided that it is requisite to confirm the Provisional Order without modifications under sections 28(4) of the Gas Act and 25(4) of the Electricity Act. Accordingly, the confirmed Provisional Order will remain in force until such time as it is revoked in accordance with sections 25 (7) and 26(6) Electricity Act and sections 28 (7) and 29(5) Gas Act.

D. Content of the order

58. The confirmed Provisional Order is available on the Ofgem website at: https://www.ofgem.gov.uk/system/files/docs/2018/06/iresa_-_confirmed_provisional_order.pdf

James Waugh
Deputy Director, Enforcement
Duly authorised on behalf of the Gas and Electricity Markets Authority

Dated 28 June 2018

Originally published 28 June 2018
Updated 06 July 2018