

# Proposals to improve outcomes for consumers who experience self-disconnection and self-rationing.

## Energy UK Response

24 September 2019

### Introduction

Energy UK is the trade association for the GB energy industry with a membership of over 100 suppliers, generators, and stakeholders with a business interest in the production and supply of electricity and gas for domestic and business consumers. Our membership covers over 90% of both UK power generation and the energy supply market for UK homes. We represent the diverse nature of the UK's energy industry – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

Our members turn renewable energy sources as well as nuclear, gas and coal into electricity for over 27 million homes and every business in Britain. Over 680,000 people in every corner of the country rely on the sector for their jobs, with many of our members providing long-term employment as well as quality apprenticeships and training for those starting their careers. The energy industry invests over £12.5bn annually, delivers around £84bn in economic activity through its supply chain and interaction with other sectors, and pays £6bn in tax to HMT.

This is a high-level industry response to Ofgem's proposals to improve outcomes for consumers who experience self-disconnection and self-rationing, and individual suppliers are likely to send their own responses also. We would be happy to discuss any of the points made in further detail with Ofgem or any other interested party if this is considered to be beneficial.

### Executive Summary

Energy UK welcomes the opportunity to respond to Ofgem's proposals to improve outcomes for consumers who experience self-disconnection and self-rationing. The energy sector does a great deal to assist consumers who self-disconnect or are at risk of doing so, and Energy UK is supportive of the intent behind the proposals. However, more work is needed to make sure the policy intent behind the proposals is properly delivered. An over-arching theme is that much more clarity is needed from Ofgem than is currently provided in what is expected of suppliers. There should also be some recognition by Ofgem of the good work that a lot of suppliers do already in this space, and the progress that has been made – the recent Commission for Customers in Vulnerable Circumstances report has examples of this.

Furthermore, Energy UK have a number of serious concerns around the process with which Ofgem is consulting and planning to implement these changes. These include the timescales, the lack of an Impact Assessment (IA), and the lack of recognition of wider affordability issues faced by customers that go much further than energy. We have set out these out in more detail below.

### Concerns over timescales

Energy UK and our members believe that a 4-week consultation period is entirely too short and inappropriate, as changes of this importance require at least an 8-week consultation period, and ideally 12 weeks. The critical nature of this work makes it essential that policy proposals benefit from careful consideration. We strongly feel that 4 weeks is too short a window to reply and sufficiently scrutinise the proposals, especially given the time of year, when many people are on holiday.

We note that Ofgem's approach to this consultation is also inconsistent with its own guidance, which states that 'major issues of wide interest' will be subject to 12 weeks' consultation, and 'issues of more specific interest' to 8 weeks' consultation. Energy UK has already requested via email that the consultation period for this policy proposal be extended at least to 8 weeks, in order to allow industry to engage with the content in the most effective manner, but this was rejected. We are disappointed with this and will be pressing this point further outside of this consultation response.

### **Lack of Impact Assessment and DPIA**

Energy UK and our members are concerned about the lack of an IA. Again, we feel that the critical nature of this work makes it essential that policy proposals benefit from the careful consideration an IA would provide. Ofgem's rationale for this is given as:

*"We have decided not to carry out a formal impact assessment for the purposes of section 5A of the Utilities Act 2000. We have reached this view primarily because our proposals are based on the spirit of the existing voluntary requirements and existing minimum standards"*

However, in the same section, Ofgem state:

*"[We] gave cost implications some consideration, not least to inform our assessment of the extent to which our proposals are proportionate to deliver the intended policy objective"*

We also note that the proposals in a number of areas (for example, self-rationing) go above and beyond any existing voluntary code requirements or existing minimum standards.

Energy UK and our members believe that for each proposal, in order to make an informed decision on the proposals, including a consideration of any associated costs, that would be recoverable through the default tariff cap and Prepayment Price cap, a full IA is necessary. At the very least Ofgem should provide those cost implications it considered to inform its assessment. Ofgem state they "believe costs associated with the proposal should be minimal", yet it is not clear how this conclusion has been reached without an Impact Assessment, and without sharing the analysis Ofgem has done to reach its conclusion.

### **Affordability**

Energy UK and our members are concerned that the wider issue of affordability is not recognised by Ofgem, when it is fundamental to this issue. We feel that there needs to be an overarching point about the extent to which affordability is an issue that transcends energy, not least for example the impact of Universal Credit. We would, therefore, draw Ofgem's attention to the Commission in Customers in Vulnerable Circumstances Report, published earlier this year, which on this issue states:

*"Societal changes in recent years have left millions of households across the UK struggling to afford their household bills. This issue has been exacerbated by the way the Government's rollout of Universal Credit has been delivered. It is clear that a dramatic and sustainable improvement in the position of vulnerable energy customers will only come if there is also concerted action to tackle the root causes of poverty in Great Britain. Three million people are in severe financial difficulty, and people struggling with their household bills has become the "new normal".*

Energy UK of course recognises there are things suppliers can do to help customers who are struggling financially, and many do already, however this is an issue that goes much wider than just energy, and has a huge bearing on customers who self-disconnect and self-ration. As a point of principle, the energy system is not an efficient surrogate for intelligently developed and delivered government social policy.

### **Responses to individual questions**

*Question 1: Do you agree with our proposal to require suppliers to identify prepayment self-disconnection and the associated proposed licence conditions? Please refer to Appendix 1 for the draft licence conditions.*

Energy UK notes that, beyond stating that suppliers should take all reasonable steps, Ofgem has provided little clarification as to its expectations and what this might look like in practice, particularly given the technical limitations of non-smart prepayment meters. Energy UK is supportive in principle and it should be noted that many suppliers are already seeking to try and identify self-disconnection. More clarity is, however, needed from Ofgem, in particular what may be appropriate actions for a supplier to take and what is meant by 'all reasonable steps'. Greater clarity is also required about what 'short term support' means and how suppliers are to provide this service.

*Question 2: Do you agree with our proposal to require suppliers to identify self-rationing and the associated proposed licence conditions? Please refer to Appendix 1 for the draft licence conditions.*

Ofgem needs to acknowledge how challenging it will be for suppliers to identify self-rationing on a practical basis. In particular, Energy UK's members have raised that the inclusion of credit meters was not expected, which in turn further demonstrates the need for an impact assessment. Understanding the individual circumstances of a customer is essential to understanding the reasons why there may be changes in their energy usage. However, even with the potential improved data on customer usage from smart metering, suppliers have limited information on the wider context of a customer's life and how this may impact on their energy usage. Households may reduce their energy usage for any number of reasons, such as wanting to be more energy efficient or going on holiday.

This challenge is acknowledged by Ofgem in the consultation by calling on suppliers to be 'balanced' in how they interpret and apply the provisions. We also believe that Ofgem should take into account how invasive this policy intent may come across, should suppliers query a customer's usage. There is concern that it may lead to increased complaints (as with campaigns on self-disconnection), as it's an extremely difficult conversation to have without it seeming like a supplier is attempting to get customers to use more energy, perhaps uneconomically.

Ofgem must remember that suppliers' frontline agents and employees are energy experts, not care professionals. Energy suppliers have to strike a fine, and sensitive balance when making important but often difficult decisions on whether to take further intrusive steps into the lives of customers.

Further clarity on how Ofgem plans to define 'self-rationing' would, therefore, be useful. There is also a danger that the proposed licence definition could be seen to be so broad that it constitutes any reduction in energy usage, regardless of the reason, which we feel would be counter-productive and not the policy intent.

We also feel that the proposal is not clear enough on the requirements being proposed for suppliers to be able to identify self-rationing for both traditional and smart customers. Ofgem have verbally suggested at an Energy UK meeting that the proposal was aimed at smart PPM customer data, however the draft SLC proposals are not clear enough on this subject.

*Question 3a: Do you agree with our proposal to require suppliers to offer emergency and friendly credit functions for all prepayment meter customers? AND Question 3b: Do you agree with our associated proposed licence conditions? Please refer to Appendix 1 for the draft licence conditions.*

*Question 4a: Do you agree with our proposal to require suppliers to offer discretionary credit for prepayment meter customers in vulnerable circumstances? AND Question 4b: Do you agree with our associated proposed licence conditions? Please refer to Appendix 1 for the draft licence conditions.*

While the proposals would ensure short term relief for customers in difficulty, as currently presented we are concerned that they could in the long run risk exacerbating the issues faced by customers being unable to afford their energy usage. It is important to acknowledge that the proposals do not address the root causes of customer affordability issues.

In awarding discretionary credit, consideration needs to be given as to whether it is right for a customer, for example if they have already received discretionary credit multiple times. Simply supplying discretionary credit will not address a customer's debt and in the long term may actually worsen a customer's circumstances. There is also concern that offering customers more credit could contradict the forthcoming Breathing Space requirements around a customer not getting into more debt.

With this in mind, we have concerns with the drafting of the proposed licence condition which appears at the same time to state that suppliers “must offer” discretionary credit, whilst also stating that “in assessing the sum and frequency of Discretionary Credit offered and the related repayment rate, the licensee must consider this on a case by case basis”. The two requirements would appear incompatible. If suppliers “must offer” discretionary credit, the proposed licence conditions would appear to restrict suppliers from being able to have a considered discussion about how and whether this is the right thing to do for the customer or the supplier.

We also note that in contrast to the Government’s proposed Breathing Space, there are no obligations on the customer to seek to find a long-term solution to their situation. We think Ofgem should give due consideration as to whether it would be appropriate to place a requirement on the customer to receive debt/financial advice if they take a discretionary credit, as will be the case if they enter a Breathing Space period in the future.

We are also very concerned that the new terminology of an “interest-free loan” introduces a new vocabulary that has wider connotations and does not feel applicable to all scenarios, for example in cases where a supplier feels it is unlikely that a customer will be able to pay the money back. Offering a loan could raise questions as to whether a supplier is and/or needs to be FCA licensed and compliant.

Energy UK members would also welcome further clarity from Ofgem on what it means by draft SLC 27A.4. Members have raised that they are unaware of any technical solutions available to suppliers to help customers who cannot be provided friendly credit, and therefore we would urge Ofgem to provide some advice on the practical application of this SLC.

We are also aware that other organisations have raised that suppliers could also consider utilising Warm Home Discount (WHD) industry initiative funding for debt write off to assist customers. It should, however, be noted that this element of WHD has slowly been reduced over recent years as it is not BEIS policy intent.

*Question 5: Do you agree with our proposal to incorporate the Ability to Pay principles in the supply licence?*

Energy UK notes that compliance with the Ability to Pay principles are effectively already in licence and Ofgem can effectively already enforce against them should it choose to do so. Ofgem’s proposals will, however, add greater prominence to them.

*Question 6: Do you agree with our proposal to update the Ability to Pay principles to reflect changes in supplier debt recovery practices? Are there other changes that we should implement?*

While Ofgem presents a number of proposed changes, little context is offered in the consultation to outline why Ofgem think any of the changes are required. In the absence of this context it is challenging to respond fully.

Energy UK also notes that the Ability to Pay principles adopt a more prescriptive approach to how suppliers communicate with customers. It is, therefore, unclear how this reflects the recent shift towards a principles-based approach to supplier-customer communications across the wider licence.

Finally, we note that there is some ambiguity in the proposed drafting as to whether the principles only apply to the debt accrued by a customer or whether they also apply to ongoing consumption. Clarification from Ofgem would be welcome.

**For any further questions or enquires please contact Tom Marsland: [tom.marsland@energy-uk.org.uk](mailto:tom.marsland@energy-uk.org.uk) or 020 7747 2957.**