

Consultation

Consultation on extending protections for domestic customers who may have prepayment meters installed under warrant (Electricity and Gas Supply Standard Licence Condition 28B)

Publication date: 25 November 2020

Contact: Dennis Berg, Senior Manager
Patrick Gould, Analyst

Team: Retail Policy Team, Retail Directorate

Response deadline: 9 December 2020

Tel: 020 7901 7000

Email: CDconsultations@ofgem.gov.uk

We are consulting on extending protections for domestic customers who may have prepayment meters installed under warrant (Electricity and Gas Standard Licence Condition (SLC) 28B).

This document outlines the scope, purpose and questions of the consultation and how you can get involved. Once the consultation is closed, we will consider all responses. We want to be transparent in our consultations. We will publish the non-confidential responses we receive alongside a decision on next steps on our website at [Ofgem.gov.uk/consultations](https://www.ofgem.gov.uk/consultations). If you want your response – in whole or in part – to be considered confidential, please tell us in your response and explain why. Please clearly mark the parts of your response that you consider to be confidential, and if possible, put the confidential material in separate appendices to your response.

© Crown copyright 2020

The text of this document may be reproduced (excluding logos) under and in accordance with the terms of the [Open Government Licence](#).

Without prejudice to the generality of the terms of the Open Government Licence the material that is reproduced must be acknowledged as Crown copyright and the document title of this document must be specified in that acknowledgement.

Any enquiries related to the text of this publication should be sent to Ofgem at: 10 South Colonnade, Canary Wharf, London, E14 4PU. Alternatively, please call Ofgem on 0207 901 7000.

This publication is available at www.ofgem.gov.uk. Any enquiries regarding the use and re-use of this information resource should be sent to: psi@nationalarchives.gsi.gov.uk

Contents

1. Introduction.....	4
What are we consulting on?	4
How to respond.....	5
Your response, data and confidentiality	6
General feedback	7
2. Rationale and justification for extending SLC 28B.....	8
The sunset clause.....	9
The state of the smart meter rollout	10
Current use of warrants and wider picture of debt and affordability	11
Impact on consumers and suppliers.....	12
Conclusion and proposal.....	14
Appendices.....	15

1. Introduction

What are we consulting on?

- 1.1. Protecting consumers, particularly those in vulnerable situations, is a key priority for Ofgem.¹ As set out in our Vulnerability Strategy 2025, a key area for putting this priority into practice is the need to support consumers who are struggling with their bills.²
- 1.2. In January 2018, Standard Licence Conditions (Condition 28B of both the gas and electricity supply licences) came into force to protect consumers who may have a prepayment meter (PPM) installed under warrant in terms of the Rights of Entry (Gas and Electricity Boards) 1954 (as amended).³ These protections include:
 - a) A universal cap of £150 on the amount suppliers can charge for all costs in relation to installing a PPM under warrant;
 - b) Prohibitions on the use of, or ability to charge any costs for warrants in relation to consumers in certain vulnerable situations; and
 - c) A proportionality principle covering:
 - i. the actions of suppliers when exercising a warrant to install a PPM; and
 - ii. the costs and actions of suppliers for all customers in the debt recovery process.
- 1.3. SLC 28B contains a sunset clause (SLC 28B.7) that puts a time limit on the duration of protections a), b), and c) i) above. This clause is mainly linked to the completion of the smart meter rollout, because the physical installation of a PPM under warrant is not required when consumers have smart meters (which can be switched from credit to prepayment mode remotely).

¹ The terms “our”, “we”, “Ofgem” and “Authority” are used interchangeably in this document.

² Ofgem (2019) [Consumer Vulnerability Strategy 2025](#)

³ Ofgem (2017) [Decision to modify gas and electricity supply licences for installation of prepayment meters under warrant](#)

- 1.4. As set out in SLC 28.7, the protections listed above will end on 31 December 2020 unless the Authority specifies a later date.
- 1.5. SLC 28B.7 allows the Authority to extend the duration of these protections, by publishing a statement in writing. There is no formal requirement contained in SLC 28B for the Authority to consult on such an extension, as opposed to where the Authority proposes to specify another type of warrant as being within the scope of the SLC 28B.10 definition of “Relevant Warrant”, or proposes to amend the SLC 28B.10 definition of “Specified Period”.
- 1.6. We propose to extend the cap and the prohibitions to **30 June 2025**. As explained below in section 2, this is primarily to reflect the current state of the smart meter rollout and the post-2020 framework for smart meters.⁴ While there is no requirement in SLC 28B for us to consult on extending the duration of the relevant restrictions, we have decided to conduct a **two week consultation** to allow stakeholders to present their views. Due to the length of the proposed extension, we believe this is good practice. Our decision to consult here does not mean that we consider that any other extension of the duration (regardless of the length of time of any such extension) of the restrictions in SLC 28B must or should be subject to consultation. We have set out at section 2 below our rationale and justification for the proposed extension.

How to respond

- 1.7. This consultation will be open for **2 weeks** and will close at **5pm** on **Wednesday 9 December 2020**. We want to hear from anyone interested in this consultation. Please send your response to the person or team named on this document’s front page. We will publish non-confidential responses on our website at www.ofgem.gov.uk/consultations. Subject to the responses we receive, and any other relevant considerations, we intend to issue our decision before the end of the year.

⁴ Department for Business, Energy and Industrial Strategy (2020) [Delivering a Smart System: Response to a Consultation on Smart Meter Policy Framework Post-2020](#)

Your response, data and confidentiality

- 1.8. You can ask us to keep your response, or parts of your response, confidential. We'll respect this, subject to obligations to disclose information, for example, under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, statutory directions, court orders, government regulations or where you give us explicit permission to disclose. If you do want us to keep your response confidential, please clearly mark this on your response and explain why.
- 1.9. If you wish us to keep part of your response confidential, please clearly mark those parts of your response that you *do* wish to be kept confidential and those that you *do not* wish to be kept confidential. Please put the confidential material in a separate appendix to your response. If necessary, we'll get in touch with you to discuss which parts of the information in your response should be kept confidential, and which can be published. We might ask for reasons why.
- 1.10. If the information you give in your response contains personal data under the General Data Protection Regulation 2016/379 (GDPR) and domestic legislation on data protection, the Gas and Electricity Markets Authority will be the data controller for the purposes of GDPR. Ofgem uses the information in responses in performing its statutory functions and in accordance with section 105 of the Utilities Act 2000. Please refer to our Privacy Notice on consultations, see Appendix 4.
- 1.11. If you wish to respond confidentially, we'll keep your response itself confidential, but we will publish the number (but not the names) of confidential responses we receive. We won't link responses to respondents if we publish a summary of responses, and we will evaluate each response on its own merits without undermining your right to confidentiality.

General feedback

1.12. We believe that consultation is at the heart of good policy development. We welcome any comments about how we've run this consultation. We'd also like to get your answers to these questions:

1. Do you have any comments about the overall process of this consultation?
2. Do you have any comments about its tone and content?
3. Was it easy to read and understand? Or could it have been better written?
4. Were its conclusions balanced?
5. Did it make reasoned recommendations for improvement?
6. Do you have any further comments?

Please send any general feedback comments to stakeholders@ofgem.gov.uk

2. Rationale and justification for extending SLC 28B

Question 1: Do you agree with our proposal to extend these protections until 30 June 2025?

- 2.1. There are a reported 4.3 million gas customers and 3.4 million electricity customers currently using prepayment meters.⁵ Since 2007, over 1 million PPMs for gas and electricity have been installed under warrant.⁶
- 2.2. We know from our research that customers with prepayment meters are more likely to be in vulnerable situations.⁷ We also know that the prepayment market is currently not functioning as well as it should.⁸ Our 2015 review into the prepayment market highlighted the overuse, misapplication, and inconsistency of installing PPMs under warrant.⁹ We identified three key areas of concern:
- 1) Poor identification of vulnerability during the debt recovery process that led to traumatic experiences for some consumers who had PPMs installed under warrant;
 - 2) Customers being charged warrant-related costs disproportionate to the original debt owed, causing financial distress for consumers and exacerbating problem debt amongst vulnerable consumers; and
 - 3) Inconsistency of warrant costs and charges across suppliers, with charges for dual fuel consumers ranging from £200 to over £900.¹⁰

⁵ Ofgem (2019) supplier request for information – data correct as of October 2019

⁶ Ofgem (2019) [Consumer Vulnerability Strategy: reporting on progress](#)

⁷ Ofgem (2019) [Consumer Vulnerability Strategy 2025](#)

⁸ Ofgem (2019) [State of the energy market 2019](#)

⁹ Ofgem (2015) [Prepayment review: understanding supplier charging practices and barriers to switching](#)

¹⁰ Taken from the request for information conducted May 2016.

- 2.3. In order to protect consumers from the practices above, we introduced a combination of prescriptive and principle-based measures: a cap, two prohibitions, and a proportionality principle.
- 2.4. To protect consumers, prevent disproportionate charges to a customer's outstanding debt and create consistency across the market, we capped the amount suppliers can charge customers to the specified amount of £150. The specified amount includes all costs related to the application and execution of the warrant incurred in the last 12 months (eg court costs).
- 2.5. We also introduced two separate prohibitions. *First*, a prohibition on suppliers using warrants in certain exceptional cases such as customers for whom the experience would be traumatic because of their mental capacity and/or psychological state. We also saw this as a way to direct suppliers to other, more suitable and less invasive recovery methods.
- 2.6. The *second* prohibition prevents suppliers charging any warrant-related costs in certain other cases. These include consumers who may be impaired from engaging in the warrant process due to their vulnerability and consumers in financial difficulties. As such, this prohibition aimed to reduce the financial distress indebted consumers faced by additional warrant-related charges and, again, to ensure suppliers pursued other, less distressing debt recovery methods.
- 2.7. The proportionality principle covers all supplier costs and actions when recovering debt, including the use of a warrant to install a PPM. The intended effect of this measure was to ensure suppliers take actions and levy costs that are proportionate in all cases where they seek to recover debt from consumers. In our decision document, we explained how we were particularly concerned that suppliers may shift debt recovery charges upstream of the warrant process because they would be restricted from recovering the full amount of warrant-related costs due to the cap.

The sunset clause

- 2.8. As set out previously, three measures cease to have effect on 31 December 2020. We included a sunset clause in SLC 28B because smart meters can operate in prepay or credit mode. As such, when customers have an operating smart meter, there is no need for suppliers to obtain a warrant to enter a property to install a PPM, as

customers can be switched remotely. When the smart meter rollout is complete, we argued this would reduce the need for regulation in this area.

2.9. When considering extending the sunset clause, we have two main considerations in mind:

- ❖ *First*, and most importantly, the state of the smart meter rollout; and
- ❖ *Second*, the current use of warrants and to a lesser extent the wider picture of debt and affordability.

The state of the smart meter rollout

2.10. Our primary consideration in relation to our proposed extension of the measures is the state of the smart meter rollout. Under the current smart meter regulatory framework, energy suppliers have an obligation to take 'all reasonable steps' (ARS) to install smart meters in all homes and small businesses by the end of June 2021.

2.11. The COVID-19 pandemic has affected the smart meter rollout. In March 2020, suppliers halted all but essential and emergency metering work and supporting those in vulnerable situations as the country went into a national lockdown. In light of the hiatus in the rollout, the government has decided to extend the existing ARS obligation that was due to expire on 31 December 2020 by six months to 30 June 2021. This is to take account of the short-term uncertainty for energy suppliers because of COVID-19.

2.12. However, even with that extension, the smart meter rollout is unlikely to be complete by that point, as the current percentage of smart meters installed in domestic premises is 39%.¹¹ After the extension of the existing ARS framework, the government has therefore also decided to implement a four-year framework to reach market-wide coverage of smart meters. Binding annual installation targets for each energy supplier will be set on a trajectory towards market-wide rollout subject to an annual tolerance level.

¹¹ Department for Business, Energy and Industrial Strategy (2020) [Smart Meter Statistics in Great Britain: Quarterly Report to end June 2020](#)

- 2.13. This new framework will begin on the day after the existing obligation ends and will be applicable to all domestic and non-domestic energy suppliers in line with the existing obligations. The new framework will span from 1 July 2021 to 30 June 2025.
- 2.14. Therefore, our view is that we do not consider it is justified to let the SLC 28B protections lapse under the sunset clause. As a minded-to position, we consider it necessary to extend the protections for a duration which matches that of the new smart meter framework set by the government.

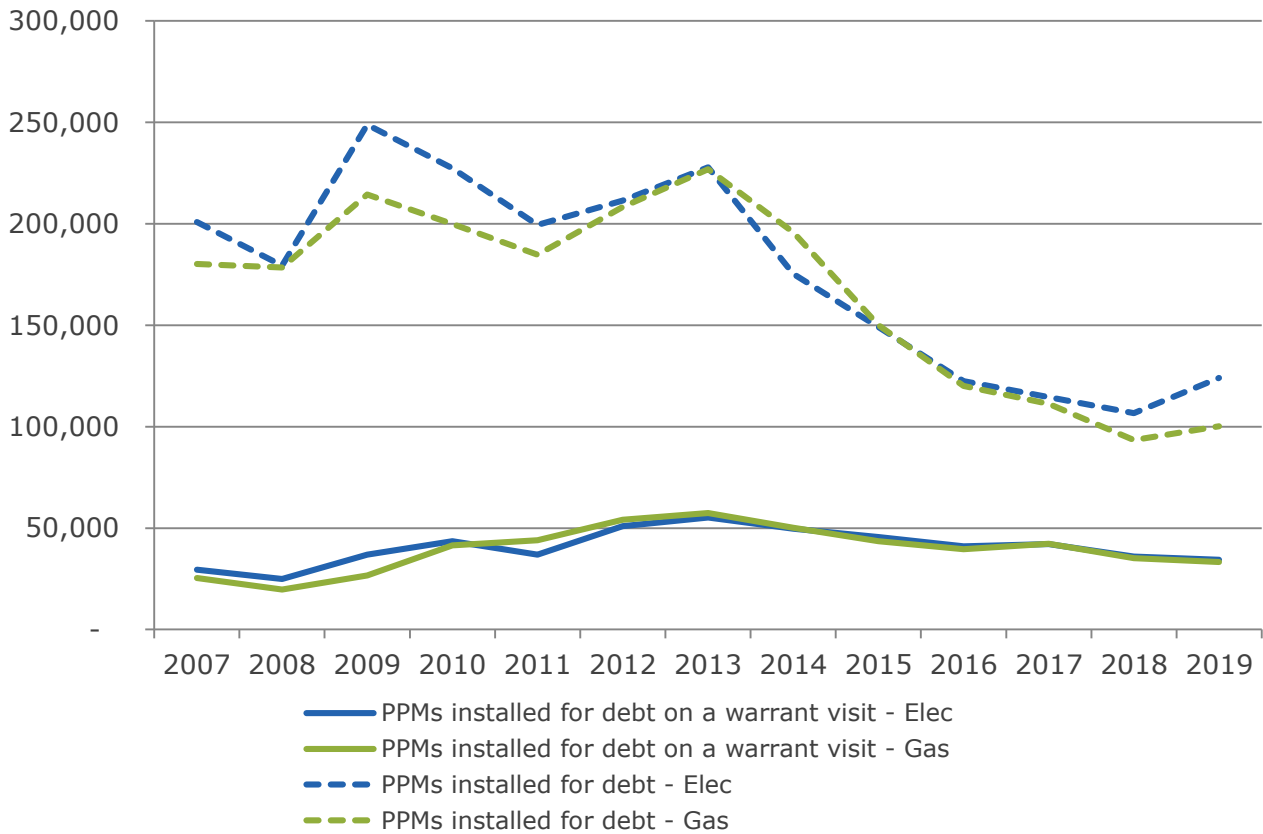
Current use of warrants and wider picture of debt and affordability

- 2.15. Notwithstanding our primary consideration being the current state of the smart meter rollout, we have also considered the current use of warrants and, to a lesser extent, the wider picture of consumer debt and affordability, as this is important context.
- 2.16. Since the introduction of warrant protections, our data shows nearly 140,000 gas and electricity PPMs have been installed under warrant in the years 2018 and 2019 (Figure 1 – see appendix 1 for the data table). Since 2013, where we saw a peak of PPM installations under warrant (112,700), the number has steadily decreased with just over 67,000 PPMs installed under warrant in 2019. We welcome this decrease but a gradual decline is not sufficient to not extend the protections.
- 2.17. Alongside the number of PPMs installed under warrant, we have also considered other indicators of debt and affordability which in our view are relevant to considering extension of the protections. In 2019, nearly 225,000 gas and electricity PPMs were installed to repay debt, an increase of 10% compared to 2018. This is the first uptick in PPMs installed to repay debt since 2013. Whilst not indicative of a trend, we are concerned by this. With our research showing one in five consumers are worried of falling behind on energy bills because COVID-19 has reduced their income, we could expect to see consumer debt and affordability challenges increase in the short to medium term.¹² As such, the impacts of COVID-19 may affect the number of PPMs

¹² Ofgem (2020) [Consumers' experiences with energy during the Covid-19 pandemic: October 2020 update](#)

installed under warrant as seen in the years following the financial crisis from 2008 to 2013.

Figure 1: Number of PPMs installed for debt under warrant and PPMs installed for debt, 2007 - 2019



2.18. Coupled with the primary consideration of the state of the smart meter rollout, we have also considered the current number of PPMs installed under warrant and other indicators alongside the wider picture of debt and affordability – namely the impacts of COVID-19. Taking all this into account, we believe this strengthens the rationale for extending these important protections for consumers.

Impact on consumers and suppliers

2.19. In addition to the above considerations, we have updated cost calculations in our previous Impact Assessment to calculate the estimated direct savings to consumers

per year (and conversely the cost impact on suppliers).¹³ To do this we have used data from the previous request for information (RFI) in 2016 and 2019 social obligations reporting (SOR) data.¹⁴

2.20. As the primary effect of this policy is to remove or reduce the costs to consumers in the warrant process, we have calculated the estimated direct savings of extending the cap and both prohibitions to lie between £1.7m and £6.2m per year in 2020 prices (Figure 2).

Figure 2: Low and high range estimated direct savings of extending the policy per year (£m)

	Lowest range (£m)	Highest range (£m)
Change in costs recovered (vs counterfactual)	1.7	5.6
Savings to vulnerable consumers protected from PPM installation	-	0.6
Estimated direct savings of extending policy per year	1.7	6.2

2.21. The range of estimated direct savings depends on two key factors. *First*, the rate of application of charges to consumers who have a PPM installed under warrant. *Second*, the proportion of consumers at warrant execution stage which are in a severely vulnerable situation and could qualify under the prohibitions for installation.

2.22. The lowest end of the range captures a scenario in which the rate of application of charges is increased to 100%; all suppliers charge up to the £150 cap and the proportion of consumers at warrant execution stage which are severely vulnerable and could qualify under the prohibition of installation is 0%. The highest end of the range

¹³ Ofgem (2017) [Prepayment meters installed under warrant for non-payment of debt: Impact Assessment](#)

¹⁴ The Impact Assessment published alongside our decision in 2017 was not required under Section 5A Impact Assessment, as set out in our previous consultation documents. However, we decided that it would still be appropriate to produce an Impact Assessment. For the proposal to extend, we have again calculated cost impacts even though we are not obliged to do so.

captures a scenario in which suppliers maintain the same rate of application of charges as before the policy was introduced; all suppliers charge up to the £150 cap and the proportion of consumers at warrant execution stage which are severely vulnerable and could qualify under the prohibition of PPM installation is 10%.

- 2.23. To construct the counterfactual, we compared the total charges applied if the protections were not extended with the total charges applied if the protections were extended. The impact therefore refers to the difference in estimated direct savings for consumers between what will be recovered by suppliers due to the extension and what could have been recovered if the policy was lifted.
- 2.24. In doing so, we have made some assumptions about the data. *First*, we have assumed the rate of application of charges and warrant-related charges would return to the same levels before the policy was introduced if the protections were not extended. We believe this is a reasonable assumption that leads us to having a higher number at the top of the range. *Second*, the counterfactual corresponds to what suppliers recover when there is no policy in place based on estimated activity numbers in 2019. In our previous Impact Assessment we have used 2016 RFI data. To construct our new estimation, we have drawn on data such as the number of PPMs installed under warrant from 2019 SOR data.
- 2.25. Furthermore, we have not factored in the number of smart meters rolled out and the likely concomitant decrease in the use of warrants to install a PPM in the quantitative analysis of impacts. Therefore, the estimated amount we have calculated is likely to overstate the actual impact, particularly in the latter years of the smart meter rollout.

Conclusion and proposal

- 2.26. Based on the state of the smart meter rollout and the continued use of warrants to install prepayment meters, under SLC 28B.7 we therefore propose to extend the protections to align with the new framework for the smart meter rollout, and extend these protections until **30 June 2025**.

Appendices

Index

Appendix	Name of appendix	Page no.
1	Number of PPMs installed for debt under warrant and PPMs installed for debt, 2007 – 2019	16
2	Privacy notice on consultations	17

Appendix 1 - Number of PPMs installed for debt under warrant and PPMs installed for debt, 2007 – 2019

Year	PPMs installed for debt on a warrant visit - Elec	PPMs installed for debt on a warrant visit - Gas	PPMs installed for debt - Elec	PPMs installed for debt - Gas
2007	29,466	25,407	200,808	180,172
2008	24,888	19,733	179,390	178,446
2009	36,837	26,711	248,834	214,448
2010	43,494	41,518	227,352	199,964
2011	36,958	44,046	199,483	184,726
2012	50,945	54,128	211,519	208,235
2013	55,243	57,472	227,886	226,999
2014	49,615	50,097	175,348	195,841
2015	45,579	43,584	149,098	150,023
2016	41,046	39,548	122,488	120,075
2017	42,094	42,330	114,559	111,184
2018	35,886	35,095	106,667	93,329
2019	34,374	33,316	124,069	100,139

Appendix 2 – Privacy notice on consultations

Personal data

The following explains your rights and gives you the information you are entitled to under the General Data Protection Regulation (GDPR).

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the controller and contact details of our Data Protection Officer

The Gas and Electricity Markets Authority is the controller, (for ease of reference, "Ofgem"). The Data Protection Officer can be contacted at dpo@ofgem.gov.uk

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

As a public authority, the GDPR makes provision for Ofgem to process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

3. With whom we will be sharing your personal data

Your personal information is never shared with anyone outside of Ofgem. However, we will publish your response to our consultation on our website. If your response includes personal information we will publish your response as is, unless you tell us you wish to have any names on the document redacted.

4. For how long we will keep your personal data, or criteria used to determine the retention period.

In this consultation, we intend to hold your data for 1 year before it is reviewed.

5. Your rights

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right to:

- know how we use your personal data
- access your personal data

- have personal data corrected if it is inaccurate or incomplete
- ask us to delete personal data when we no longer need it
- ask us to restrict how we process your data
- get your data from us and re-use it across other services
- object to certain ways we use your data
- be safeguarded against risks where decisions based on your data are taken entirely automatically
- tell us if we can share your information with 3rd parties
- tell us your preferred frequency, content and format of our communications with you
- to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

6. Your personal data will not be sent overseas

7. Your personal data will not be used for any automated decision making.

8. Your personal data will be stored in a secure government IT system.

9. More information For more information on how Ofgem processes your data, click on the link to our "[Ofgem privacy promise](#)".