

Proposed variation:	CR034 – refining the definition of vulnerability		
Decision:	The Authority ¹ has decided to approve CR034		
Target audience:	SMICoP Governance Board, SMICoP Members, all interested parties		
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Authority decision on proposed Change Request CR034, “refining the definition of vulnerability”, produced under Section B2 of the Smart Meter Installation Code of Practice (“SMICoP”)

Background to the Change Request

The smart meter roll-out, and the SMICoP, place an important emphasis on identifying and serving vulnerable customers appropriately. As well as ensuring that everyone can benefit from smart meters, the installation process represents a once-in-a-generation opportunity to improve suppliers’ understanding of their customers and, for example, improve their priority service register (PSR). The definition of vulnerability is therefore central to suppliers’ approaches to this important topic.

Over the past few years the industry has developed its approach to identifying and serving vulnerable customers. In 2013, our Consumer Vulnerability Strategy (CVS) signalled a shift towards a more dynamic definition of vulnerability, acknowledging that people may be more or less vulnerable depending on their circumstances – and may fall in and out of vulnerability. It is in this light that SMICoP members have sought to review the definition in the SMICoP.

As currently drafted, the SMICoP states that:

A Customer is Vulnerable if, for reasons of age, health, disability, or severe financial insecurity, they are unable to safeguard their personal welfare or the personal welfare of other members of the household.

This definition mirrors the one used by some suppliers in the Energy UK Safety Net, which aims to protect vulnerable consumers from disconnection.

In the SMICoP, this definition is used to inform how suppliers should approach particular aspects of the installation process to meet the needs of vulnerable customers. These are collated in appendix 2 of the SMICoP (‘Clauses Specific to Vulnerable Customers’), and include requirements to provide appropriate information, identify vulnerable customers, keep records and make adjustments before and during the installation visit.

Citizens Advice raised change request 031 (“CR031”), and it was approved by the SMICoP Governance Board (“SGB”) on 26 November 2015. The aim of the proposed change request was to align the definition of vulnerability with industry practice.

The Final Change Report (“FCR”) for CR031 was issued to us on 30 November 2015. While we agreed with the intent of the modification, on 10 February 2016 we issued our decision to withhold our approval of the change request because we did not consider that

¹ The terms ‘the Authority’, ‘Ofgem’ and ‘we’ are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

the proposed wording met with the minimum requirements in the licence. We suggested that SGB should review and resubmit a revised change request².

Citizens Advice raised change request 034 ("CR034"), and it was rejected by the SGB on 21 March 2016. The aim of CR034 was to update the definition of vulnerability to better reflect the dynamic nature of vulnerability, thus helping to ensure that activities undertaken in relation to the installation process are appropriate and that customers in vulnerable situations receive appropriate information.

The Authority still has a role in determining change requests even where they have been rejected by the SGB. However, we note that the deemed approval regime is limited to those proposals that have been approved by the SGB, and therefore would not apply in the case of CR034³.

The FCR for CR034 was issued to us on 23 March 2016. Parties had two weeks to make representations to us about the request, after which we had until 9 May 2016 to approve the change request, withhold our approval or delay our decision.

The change request

The proposed change, and Citizens Advice's rationale

CR034 proposes to replace the current definition of 'vulnerable' with text drawing on our CVS, and also the PSR definition we consulted on last year:

"Vulnerable" means a customer who is classed as vulnerable according to the following definition:

A Customer is vulnerable, who, due to their Personal Characteristics or Circumstance, or otherwise being in a vulnerable situation, may require Priority Services or additional support.

"Personal Characteristics or Circumstance" includes: (a) The Domestic Customer being of pensionable age (b) The Domestic Customer being chronically sick, or having an impairment, disability, long term medical condition (including but not limited to a visual, auditory, literacy or mobility impairment), or severe financial insecurity (they are unable to safeguard their personal welfare of the personal welfare of other members of the household).

Citizens Advice proposed this change to ensure that all vulnerable consumers are protected during smart meter installations. They proposed a definition of vulnerable for SMICoP, drawing on the CVS and PSR definitions, to acknowledge the dynamic nature of vulnerability, whilst aligning with the relevant licence conditions⁴. The proposed text reflects the PSR definition, with minor amendments and the additional reference to severe financial insecurity (an identified group of consumers who may be more vulnerable and suffer detriment during smart meter installation).

² The Authority's decision to withhold approval of CR031 – aligning the definition of vulnerability with industry best practice.

https://www.ofgem.gov.uk/system/files/docs/2016/02/cr031_decision_letter.pdf

³ See paragraph 2.7.6 of the SMICoP, which provides: "should the Authority not respond to any notified change request *approved by the SMICoP Governance Board within 30 working days, the proposed change request shall be treated as having been approved*"

⁴ Conditions 35/36 of the gas supply licence, and conditions 41/42 of the electricity supply licence set minimum standards for the content of the SMICoP, which includes minimum standards for identifying and meeting the needs of specific consumer groups.

Views of other SGB members

Four supplier members responded to Citizens Advice’s draft change report. Three suppliers (and Citizens Advice) accepted the proposal, the implementation date and technique. One supplier expressed the view that the proposal may be premature, given that the wording is modelled on the draft PSR licence condition text which has not yet been finalised. Another supplier felt uncomfortable with the prescriptive classification of groups within society, eg ‘of pensionable age’. One supplier rejected the proposal, expressing the view that it does not align with the electricity and gas supply licence conditions.

The SGB recommendation

On 21 March 2016 the SGB voted (via email) to reject the CR034 solution, technique and implementation date. The outcome of the voting is summarised in the table below.

Member	Solution	Implementation Date	Implementation Technique
British Gas	Accept	Accept	Accept
Citizens Advice 1	Accept	Accept	Accept
Citizens Advice 2	Accept	Accept	Accept
Eon Energy	Accept	Accept	Accept
EDF Energy	N/A	N/A	N/A
Npower	Accept	Accept	Accept
Scottish Power	Reject	Reject	Reject
SSE	Reject	Reject	Accept

CR034 did not receive an absolute majority vote from the SGB (seven votes), required to be approved.⁵

Our decision

We have considered the issues raised by CR034, the details set out in the FCR, the votes of the SGB and the Change Advisory Group’s response and comments. We also considered these factors in light of whether CR034 would better facilitate the achievement of the objectives set out in Standard Conditions 41.2 and 42.1 of the Electricity Supply Licence and Standard Licence Conditions 35.2 and 36.1 of the Gas Supply Licence (“SMICoP Objectives”). We have concluded that implementation of CR034 would have a positive impact on the achievement of the SMICoP Objectives.

In coming to our decision we have also considered our wider statutory duties, including particularly our principal objective to protect the interests of existing and future energy consumers.

We have decided to approve CR034.

⁵ Although the table above only shows eight votes, there are in total 12 possible votes that could be cast if small suppliers and micro-businesses were on the SGB. Hence why seven votes is required for a majority vote.

Reasons for our decision

Consideration against the SMICoP objectives

We have considered the impact of CR034 against each of the SMICoP objectives, which are listed below.

Objective (a): the licensee and any Representative provides and maintains a standard of service which helps to ensure that Domestic Customers' experience of the installation of Smart Metering Systems at their premises meets their reasonable expectations

Objective (b): all activities undertaken by the licensee and any Representative in relation to the installation of Smart Metering Systems are conducted in a fair, transparent, appropriate and professional manner

Objective (c): Domestic Customers are given information about, and during, the installation of Smart Metering Systems which:

(i) is complete and accurate;

(ii) does not mislead them; and

(iii) informs them about the benefits of Smart Metering Systems and about what to expect in relation to the installation process;

Objective (d): Domestic Customers are not subject to unwelcome Marketing during any visit to their premises for the purposes of installing Smart Metering Systems.

We consider that CR034 would have a positive impact on objectives (a), (b) and (C) and will have a neutral impact on objective (d).

Objectives (a), (b) and (c)

The definition of vulnerability is important to enable suppliers to train their staff and agents to identify any vulnerable customers, and adapt their provision of services as set out in the SMICoP. As we set out in our CVS, vulnerability can be dynamic according to each consumer's circumstances, and this proposal moves towards the definition we set out in that strategy. The revised wording of the vulnerability definition shifts the onus on to suppliers to think about vulnerability in the context of the CVS, in advance of the ramp up of smart meter installations. The proposed definition requires suppliers to consider whether prescribed groups of consumers are vulnerable, and therefore require different or additional services or support. However, it will also mean suppliers have to consider whether a broader range of consumers may need additional support to realise the benefits of smart meters, because the definition refers to both customers who are vulnerable due to their 'Personal Characteristics or Circumstances' or who are otherwise in a vulnerable situation.

By identifying vulnerable consumers more effectively, we expect that licensees will be better able to ensure that the installation of the smart metering system meets with their reasonable expectations (Objective (a)). It will also allow the supplier to tailor the installation, meaning it will more likely be conducted in an appropriate manner (Objective

(b)). Having identified vulnerable consumers more effectively, we expect this change to have a positive impact on how the licensee chooses to inform particular groups of customers about the benefits of smart metering systems, and what those consumers can expect in relation to the installation process (Objective (c)(iii)).

Objective (d)

We consider that CR034 would have a neutral impact on objective (d). It is not clear that the provision of unwelcome marketing would be affected by the definition of vulnerability used by suppliers.

Consideration against our principal objective

We also considered the impact of CR034 against our principal objective to protect the interests of existing and future energy consumers. We share Citizens Advice's determination to protect vulnerable consumers during the smart meter rollout, and its point that the roll-out provides a once-in-a-generation opportunity to make contact with customers and identify vulnerability. This change would move the industry to a more dynamic definition of vulnerability. The current SMICoP definition of vulnerability is both static and narrow, and is out of step with industry best practice.

Further considerations – links with the PSR and comments on the legal drafting

Links with the PSR

We consider there are benefits in the SMICoP definition of vulnerability aligning with best practice and the wider regulatory framework. Noting that the PSR licence condition is due to change, we expect SMICoP members to keep this definition under review. We do however accept that there may be justifiable differences between definitions.

Comments on the legal drafting

To some extent the link between the PSR and SMICoP appears to be recognised by the proposed drafting. The desired output of the proposed definition is to identify those that may require 'Priority Services' or additional support. Priority Services is not currently defined in the SMICoP or provided for in the proposed text, however this wording appears to have been capitalised and is clearly intended to link to something. We suspect that the proposer intended for the reference in the proposed text to link in with the meaning of 'Priority Services' in the working draft of the proposed amendments to standard condition 26 of the gas and electricity supply licences.

If the above is correct then we would expect to see this link being expressly made in change requests that follow future reviews of the definition of vulnerability. Without this link, or a separate definition in the SMICoP, there is likely to be a level of uncertainty with the actions that a supplier should take when 'Personal Characteristics or Circumstances' are identified during the installation process.

For the purposes of the changes being proposed here, we note that the definition of vulnerability links into a separate body of obligations (collated in Appendix 2 of the SMICoP). We are comfortable that this would give suppliers sufficient clarity on what is expected of them when a vulnerable consumer is identified.

The proposed SMICoP drafting contained in the FCR contained a spelling error. Where it discusses “severe financial insecurity”, it says “of” where it should have said “or”. Given the minor nature of this error, we consider that the code administrator should correct this typo when they implement this change, without a SMICoP member having to raise a further change request.

Decision notice

In accordance with Section 2.7 of SMICoP, we hereby approve CR034.

We agree that this change will improve protections for consumers, by moving to a definition of vulnerability that is more flexible and dynamic than the current definition.

We acknowledge that suppliers are already adhering to a broadly similar definition across the rest of their ‘business as usual’ work, so this updated definition provides consistency across their businesses, as well as a clear and consistent steer to the consumer experience.

We acknowledge that definitions in this area are undergoing change. We also acknowledge the efforts that suppliers and their agents are making to train their smart meter installers.

We suggest that SGB keeps this definition under review in light of proposed changes to the PSR standard licence condition (SLC 26 of both the gas and electricity licences). We would like to remind suppliers that, as well as the SMICoP and PSR licence conditions, suppliers should be mindful of the requirements on them to treat customers fairly (as required by the standards of conduct), as well as the overarching definition and objectives set out in the CVS.

Yours faithfully,

Rob Salter-Church

Partner, Consumers & Competition

Signed on behalf of the Authority and authorised for that purpose